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2) Code Citation: 86 Ill. Adm. Code 3000

3)

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4) Statutory Authority: Riverboat Gambling Act, 230 ILCS 10

5) Complete Description of the Subjects and Issues Involved: These proposed amendments include numerous technical and nonsubstantive changes to the rules of the Gaming Board. Definitions are deleted, revised and expanded, and new definitions are added including "bill validator," "business entity," "chip float," "institutional investor," "key person," "related party," and "token float," among others. Provisions are established for declaratory rulings and public inquiries. The amendments make comprehensive additions and revisions to many of the Board's rules affecting the operation of riverboat casinos, including rules pertaining to: a licensee's duty to disclose information, discipline, reporting of misconduct, distributions, ownership interest of institutional investors, temporary identification badges, analysis of questioned electronic gaming devices, registration and disposal of gaming devices, administrative hearings, unauthorized gaming winnings, gaming positions, chip and token exchange, progressive jackpots, requirements for bill validators and computer monitoring, excluded persons, surveillance and television cameras, financial reporting, annual and special audits, check cashing, employee tips and payment of wagering and admission taxes.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register citation and date

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3000.240	Amendment	20 Ill. Reg. 7734; 6/14/96
3000.241	New	20 Ill. Reg. 7734; 6/14/96
3000.242	New	20 Ill. Reg. 7734; 6/14/96
3000.243	New	20 Ill. Reg. 7734; 6/14/96

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments in writing concerning this proposed rulemaking within 45 days after the publication of this notice to:

Mareile B. Cusack
Chief Counsel
Illinois Gaming Board
160 N. La Salle, Suite 300S
Chicago, Illinois 60601

12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses, small municipalities, or not for profit corporations.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

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3000.270 Certification and Registration of Electronic Gaming Devices
3000.271 Analysis of Questioned Electronic Gaming Devices
3000.280 ~~Application for~~ Registration of All ~~for all~~ Gaming Devices

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SUBPART I: LIQUOR LICENSES

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AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 3000.100 Definitions

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For purposes of these Rules the following terms shall have the following meanings:

"Act": The Riverboat Gambling Act. ~~[Ill. Rev. Stat. 1991, ch. 120, pars. 2401 et seq.]~~ [230 ILCS 10].

"Affiliate": An "Affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being.

"Attributed Interest": A direct or indirect interest in a Business Entity ~~business entity~~ deemed to be held by a person not through the person's actual holdings but either through the holdings of the person's relatives or through a third party or parties on behalf of the person pursuant to a plan, arrangement or agreement.

~~"Baccarat": A card game played with a deck or multiple decks of cards dealt from a shoe. The highest game count possible is nine (9). The hand with the highest point count wins.~~

~~"Big Six": A wheel game (vertical) in which a player bets on the outcome of the wheel spin.~~

~~"Bill Changer": Any mechanical, electrical or other device, contrivance or machine designed for the purpose of dispensing an amount of tokens or credits equal to the amount of currency inserted into the bill changer system.~~

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency, validates the currency, stores the currency, and issues Electronic Credits equal to the value of currency inserted into the device.

~~"Blackjack": See "Twenty one".~~

"Board": The Illinois Gaming Board.

~~"Board Surveillance Room": A room or rooms on each Riverboat for the exclusive use of the Board for monitoring and recording of Gaming and other activities.~~

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"Business Entity": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chip": A non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a holder of an Owner's License ~~license~~ for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

"Chip Float": The difference between the total face value of Chips received from the vendor and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

~~"Craps":--A--Game-in-which-dice-are-rolled-to-make-different-points-or-combinations.~~

"Dependent": Any individuals who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's License for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device ~~used-for-cash-or-cash-equivalent~~.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single-Position Reel-Type, Single-Position Single-Game Video and Single-Position Multi-Game Video Electronic Gaming Devices.

~~"Electronic-Gaming--Device":--Any--mechanical,--electrical--device--or machine--which--upon--payment-of-consideration-is-available-to-play-or operate,-operation-of-which,-whether-by-reason-of--the--skill--of--the operator,--or--application--of--the--element--of--chance,-or-both,-may deliver-or-entitle-the-person-playing---or--operating--the--machine--to receive--premiums,--merchandise,--Tokens,--redeemable--Game-credits-or anything-of-value-other--than--unredeemable--free--Games--whether--the payoff-is-made-automatically-from-the-machines-or-in-any-other-manner.~~

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) ~~contained-in~~ collected from the drop bucket and United States currency collected from the Bill Validator drop box.

"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills ~~plus-hopper-credits~~.

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"EPROM": An acronym for Erasable, Programable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and or contains a random number generator that selects the outcome of a Game on an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List but who is excluded or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of these rules.

"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming ~~Gambling~~ operation or pose a threat to the interests of the State of Illinois.

~~"Faro":--A--card--Game--played--with-a-single-fifty-two-(52)-card-deck dealt-by-drawing-cards-face-up-from-an-open-framed-box.~~

"Game": A ~~banking,-wagering,~~ gambling ~~or-percentage-game-or~~ activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, dice, implements, or electronic, electrical, or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any Game.

"Gaming Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation; electronic, electrical, or mechanical devices or machines; ~~r~~ ~~software,~~ cards, or dice; layouts for live table Games; ~~,~~ and any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards ~~electronic-debit--cards~~; and ~~related~~ hardware and software related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's License ~~license~~ who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

~~"Give-Away":--A--game-where-patron-entry-to-the-game-may-be-determined~~

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~~by--attendance--on--a--riverboat--or---by---either---accumulation---of points/credits,---or--the--attainment--of--a--certain--outcome--on--an Electronic Gaming Device.~~

"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect Interest": An interest in a Business Entity ~~business entity~~ that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the business entity but through the holder's holdings in other business entities.

"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 3205) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal ~~Internal~~ procedures and administration and accounting controls designed by the holder of an Owner's License ~~license~~ for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity who is compensated depending on how much a patron either wagers or loses on or a determination by the holder of the Owner's License ~~license~~ or Gaming Operation Manager as to the potential amount a patron will wager or loss.

~~"Keno":--A--Game--in--which--a-player-selects-anywhere-from-one-(1)-to twenty-(20)-numbers-between-one-(1)-and--eighty--(80);---A--winner--is determined--by--an-automatic-device-which-randomly-chooses-twenty-(20) numbers.~~

"Key Person":

For a publicly-held Business Entity subject to the Act, "Key Person" shall mean an officer; director; trustee; partner; managing agent; holder of any direct, Indirect or beneficial ownership interest of 5% or more of a licensee or other entity subject to the Act; or individual able to control or exercise significant influence over the management or operating policies of a licensee or other entity subject to the Act. ~~An officer; director; trustee; partner; proprietory or managing agent of; or a holder of any direct or indirect legal or beneficial interest whose combined direct, Indirect or Attributed interest is 5% or more in, a business entity.~~

For other than a publicly-held Business Entity subject to the Act, "Key Person" shall mean an officer; director; trustee; partner; managing agent; holder of any direct, Indirect or

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beneficial ownership interest of a licensee or other entity subject to the Act; or individual able to control or exercise significant influence over the management or operating policies of a licensee or other entity subject to the Act.

~~"Klondike":--A-solitaire-card-Game-played-with-a-single-fifty-two-(52) card-deck.~~

"Live Gaming Device": Any ~~non-electrical--or-nonelectro-mechanical~~ apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the object of a wager. ~~used-to-gamble-upon,-including--but--not--limited--to--Roulette wheel--and--tables,--Blackjack-tables,-Craps-table-and-Poker-tables.~~ This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

~~"Multiple--Action--Blackjack":--A--multi-hand-(maximum-3)-variation-of the-card-game-Blackjack;--The-dealer-uses-a-common-up-card-and-players play-two-to-three-hands-as-in-a-normal-Blackjack-game.~~

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, or Exclusion or other action issued by the Board.

~~"Pai-Gow-Poker":--A-card-game-using-a-standard-fifty-two-card-deck-and one-Joker;--The-player-has-a-five-card-high-hand-and-a--two--card--low hand;---The--two--hands-of-the-player-are-compared-to-the-two-hands-of the-dealer.~~

"Payout": Winnings earned on a wager.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

~~"Poker":--A-card-Game-played-by-a-maximum-of-ten-(10)-players-who--are dealt-cards-by-a-nonplayer-dealer;--The-object-of-the-Game-is-for-each player--to--bet--the--superiority--of--his--own-hand-and-win-the-other players'-bets-by-either-making-a-bet-no-other--player--is--willing---to match-or-proving-to-hold-the-most-valuable-cards-after-all-the-betting is-over.~~

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic

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Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award. ~~A value determined by a holder of an Owner's license and arrived at by income of independent local or interlinked Electronic Gaming Devices. This value shall be clearly displayed above the interlinked Electronic Gaming Devices and metered incrementally by a Progressive Controller. A progressive machine must prominently display a manufacturer supplied glass indicating either that a Progressive Jackpot is to be paid or indicating the current amount of the jackpot.~~

~~"Punchboard": A Game in which a player selects a slip of paper or paper banded ticket which contains hidden from view a symbol, set of symbols or number(s) that have been designated in advance as winners. This Game can otherwise be identified as Pulltab, Jar Ticket, Push Card or Number Ticket.~~

~~"Red-Dog": A card game played with a standard fifty two card deck with each suit valued in a descending order: A, K, Q, J, 10, 9, 8, 7, 6, 5, 4, 3, 2. Bets are wagered on a layout in the appropriate corresponding areas. This game is often called Acey-Deucey or In-Between.~~

"Related Party":

For a publicly-held Business Entity subject to the Act, "Related Party" shall mean:

An individual or Relative of such individual, or any Business Entity, having an ownership interest or beneficial ownership interest greater than 5% of the outstanding shares of a holder of an Owner's or Supplier's License or other Business Entity subject to this Act;

A Key Person of such Business Entity;

An Affiliate of such Business Entity;

Any individual or Relative of such individual, or Business Entity or Affiliate of such Business Entity, able to control or exercise significant influence over the management or operating policies of a licensee or other Business Entity subject to this Act.

For other than a publicly-held Business Entity subject to the

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Act, "Related Party" shall mean:

An individual or Relative of such individual or any Business Entity having any direct ownership interest or beneficial ownership interest in a holder of an Owner's or Supplier's License or other Business Entity subject to the Act;

A Key Person of such Business Entity;

An Affiliate of such Business Entity;

Any individual or Relative of such individual, or Business Entity or Affiliate of such Business Entity, that is able to control or exercise significant influence over the management or operating policies of a licensee or other entity subject to this Act.

"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

"Riverboat Gaming Operation": The conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail goods and services, and transportation, on a Riverboat and at its Support Facilities.

~~"Roulette": A Game played on a horizontal rotating wheel in which players can bet on which compartment a non metallic ball may come to rest.~~

~~"Security Room": A room or rooms on each Riverboat for monitoring and recording of Gaming and other activities by employees of the Riverboat Gaming Operation.~~

~~"Sic Bo": A dice game played with three dice contained in a sealed shaker. Bets are wagered on a layout showing all possible winning combinations.~~

"Signature": The definitive identity of an individual specific EPROM chip ~~chip~~, determined by electronic analysis and reflective of the EPROM chip's ~~chip's~~ game behavior capability.

~~"Slot Machine": A type of Electronic Gaming Device.~~

~~"Sole Proprietor": A person who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.~~

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"Supplier": Either a Gaming Operations Manager or a provider of Gaming Equipment, Gaming Equipment maintenance or repair services, security services or lessor of a Riverboat or dock facilities or a provider of any goods or services where payment is calculated by a percentage of a Riverboat Gaming Operation's revenues.

"Support Facility": A place of business which is part of, or operates in conjunction ~~connection~~ with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's License ~~license~~ or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

"Table Win": The dollar amount won by the holder of an Owner's License ~~license~~ through play at a live Game which is the total of the Table Drop plus ending Chip inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens wagered which is expected to be returned by an Electronic Gaming Device during any industry-accepted cycle of Games played. ~~The sum of the number of Tokens expected to be paid as a result of jackpots divided by the number of different possible outcomes.~~

"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's License ~~license~~ for use in Gaming ~~Electronic Gaming Devices~~.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into the device.

"Token Float": The difference between the total face value of Tokens received from the vendor and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

~~"Twenty-One"--Twenty-one-(blackjack)-is-a-card--Game--played--with--a single--deck-or-multiple-decks-of-cards-dealt-from-a-shoe.--The-player attempts-to-beat-the-dealer-by-obtaining-a-total-equal-to-or-less-than twenty-one-(21)-so-that-his-total-is-higher-than-the-dealer's.~~

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

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"Wager": A sum of money or thing of value risked.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.102 Public Inquiries

Requests for information from the Board shall be directed to the Board's Public Information Officer. All requests seeking information pursuant to the Illinois Freedom of Information Act [5 ILCS 140] or Section 5.1 of the Act must be made in writing and directed to the Board's Public Information Officer. A denial of a written request for information made pursuant to this Section may be appealed by submitting a written request for review to the Administrator. Data that will be disseminated includes but is not limited to the following:

a) information the disclosure of which is required by Section 5.1 of the Act;

b) information the disclosure of which is required by the Illinois Freedom of Information Act;

c) information regarding the identities of beneficiaries of trusts that possess an ownership interest in the holder of an Owner's License, except where the beneficiary is a lineal descendant of or the spouse of a lineal descendant of the parents of the settlor of the trust. A lineal descendant shall include a step-child and an adopted child; and

d) information regarding whether a shareholder's or participant's ownership interest in the holder of an Owner's License exceeds five percent.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.103 Organization of the Illinois Gaming Board

The Board consists of five members who have been appointed to three year terms by the Governor with the advice and consent of the Senate. The Board holds a meeting at least once each quarter of the fiscal year. The Board appoints an Administrator who performs all duties assigned by the Board, including the daily administration of the Board's responsibilities. The Board may utilize the services of the Department of State Police to fulfill its responsibilities under the Act.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.104 Rulemaking Procedures

The Board's rules shall be promulgated in a manner consistent with the Illinois Administrative Procedure Act [5 ILCS 100] and the rules adopted thereunder.

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(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.105 Declaratory Rulings

a) Declaratory rulings may be issued by the Administrator in response to written inquiries covering the application of a statute or rule to a particular fact situation. The person making the request must have a real and direct interest in the fact situation presented. A declaratory ruling is binding on the Gaming Board only as to the person making the inquiry. Prior declaratory rulings are considered in responding to future inquiries with similar facts.

b) A declaratory ruling will not be issued on alternative plans of proposed transactions or on hypothetical situations. Nor will a declaratory ruling be issued to business or trade associations, or to similar groups, concerning the application of statutes or rules to members of such groups. A declaratory ruling will not be issued if the issue presented by the inquiry is pending in litigation or an administrative hearing. Where there are court decisions, statutes or regulations dispositive of the inquiry, the Administrator may decline to issue a declaratory ruling.

c) Whether to issue a declaratory ruling in response to a written inquiry is within the discretion of the Administrator. The Administrator will respond to the inquiry either by issuing a declaratory ruling or by letter explaining the request will not be honored.

d) There is certain information that must be included in each inquiry requesting a declaratory ruling:

1) The name, address, telephone number and interest of the person making the request.

2) A complete statement of all the relevant facts material to the inquiry, including the identification of all interested parties. The request should contain an analysis of the relation of the material facts to the issues.

e) The Administrator will maintain declaratory rulings as a public record available for inspection and copying in the Board's principal office. Before any declaratory ruling is made available to the public, trade secrets and other confidential information will be deleted.

f) The Board is not bound by a declaratory ruling if there has been a material change in law, statute, rules or fact. Declaratory rulings may not be appealed.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.110 Disciplinary Actions

a) A holder of any license shall be subject to imposition of fines, suspension or revocation or restriction of such license, or other

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disciplinary action for any act or failure to act by himself or by his agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the State of Illinois, or that would discredit or tend to discredit the Illinois Gaming industry or the State of Illinois. Without limiting the foregoing, the following acts or omissions may be grounds for such discipline.

1a) Failing to comply with or make provision for compliance with the Act, these rules, an owner licensee's Internal Control System or any federal, state or local law or regulation ~~or failure by the holder of an Owner's license to comply with or make provision for compliance with the holder's Internal Controls~~.

2b) Failing to comply with any ~~ruler~~ order or ruling of the Board or its agents pertaining to a Riverboat Gaming Operation ~~Gaming~~.

3c) Receiving goods or services from a person or business entity who does not hold a Supplier's License but who is required to hold such license by these rules.

4d) Being suspended or ruled ineligible or having a license revoked or suspended in any state or Gaming jurisdiction.

5e) Associating with, either socially or in business affairs, or employing persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body and would adversely affect public confidence and trust in Gaming.

6f) Failing to establish and maintain standards and procedures that prevent ineligible or unsuitable persons from being employed by the licensee, including ~~Employing in any Illinois Riverboat Gaming Operation~~ any person known to have been found guilty of cheating or using any improper device in connection with any Game.

7) Failing to promulgate an approved Internal Control System.

8) Any reason set forth in Section 3000.241(d) or resulting from an event set forth under Section 3000.243.

9) Doing or attempting any act constituting or encouraging the violation by a member or employee of the Board, or other government official, of generally accepted ethical standards, including but not limited to ethical requirements established by the Illinois Governmental Ethics Act or other statute, any applicable personnel code or code of conduct, and any applicable unit of local government law, resolution or ordinance governing the conduct and ethical behavior of local government officers and employees.

b) An employee whose employment at a Riverboat Gaming Operation has been terminated is subject to revocation of license for any act or failure to act which occurred while employed at any Riverboat Gaming Operation.

c) A person who has had his or her license revoked by the Board may not reapply for a license without permission from the Board.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.120 Place to Submit Materials

Unless otherwise required, all forms, fees, documents, papers, and other materials to be submitted to the Board shall be submitted to the Board's office in Chicago ~~Springfield~~, Illinois.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.140 Duty to Disclose Changes in Information

a) Board licensees and applicants for licenses issued by the Board shall have a continuing duty to disclose promptly any material changes in information provided to the Board. The duty to disclose changes in information shall continue throughout any period of licensure granted by the Board. Board licensees or applicant's for licenses must maintain current release of information forms as originally submitted to the Board.

b) In addition to and without limiting disclosure of changes of information required under subsection (a), licensee and applicants for licensure shall disclose all changes in or new agreements, both oral and written, relating to management; lobbying agreements; legal and consulting services agreements; agreements with Related Parties; and agreements to share benefits of ownership with Key Persons, owners of any interest in privately held companies, and any other individual or entity.

c) The failure to disclose changes required under subsection (a) or (b) may result in discipline up to and including revocation of a license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.160 ~~Owner's and Supplier's~~ Duty to Report Misconduct

The holder of an Owner's or Supplier's License or an Occupational License, Level 1 shall cause to be reported ~~promptly report~~ to the Administrator or to any other Board agent designated by the Administrator any facts which the licensee ~~holder~~ has reasonable grounds to believe indicate a violation of law (other than minor traffic violations), Board Rule or a ~~holder's~~ ~~Holder's~~ Internal Controls committed by a patron of a Riverboat Gaming Operation, a licensee or an employee of a licensee ~~Suppliers or licensed employees~~, including without limitation the performance of licensed activities different from those permitted under their license. Unless otherwise determined by the Board, all reports required by this Section shall be confidential.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.180 Weapons on Riverboat

The only individuals that may carry a weapon on the riverboat are Board agents, Illinois State Police officers, security personnel licensed by the Board, ~~and~~ peace officers on duty within their jurisdictions and such other persons as may be authorized by the Board, the Administrator or agents of the Board designated by the Administrator.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: LICENSES

Section 3000.231 Distributions

a) A holder of an Owner's License ~~license~~ may ~~shall~~ make distributions to its partners, stockholders or itself only to the extent that such distribution will not impair the financial viability of the Riverboat Gaming Operation ~~gaming operation~~ or are not otherwise inconsistent with the purposes of the Act or the rules of the Board. Factors to be considered ~~should~~ include but are not be limited to the following:

1~~a~~) Cash flow, casino cash and working ~~working~~ capital requirements;

2~~b~~) Debt service obligations and covenants associated with financial instruments ~~requirements~~;

3~~c~~) Requirements for repairs, ~~and~~ maintenance and capital improvements; ~~and~~

4~~d~~) Employment or economic development purposes and ~~capital expenditure~~ requirements of the Act; and

5) A licensee's financial projections.

b) From time to time the Board, or the Administrator acting on behalf of the Board, may require an owner licensee to report distributions made under subsection (a), along with a summary and analysis of the consideration given to the factors identified in subsections (a)[1] through (a)(5).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.234 Acquisition of Ownership Interest By Institutional Investors

a) An Institutional Investor that, individually or in association with others, cumulatively acquires, directly or indirectly, five percent or more of any class of voting securities of a publicly-traded licensee or its parent shall, within no less than ten days after acquiring such securities, notify the Administrator of such ownership and shall, upon

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request, provide such additional information as may be required by the Administrator.

b) An Institutional Investor that, individually or in association with others, cumulatively acquires, directly or indirectly, ten percent or more of any class of voting securities of a publicly-traded licensee or its parent corporation shall file an Institutional Investor Disclosure Form within 45 days after cumulatively acquiring such level of ownership interest, unless such requirement is waived by the Administrator.

c) The licensee shall notify the Administrator as soon as it becomes aware of an ownership acquisition subject to this Section. Notwithstanding the foregoing, the Institutional Investor's obligation under this Section shall be independent of the licensee's obligation to notify the Administrator.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.245 Occupational Licenses

a) Overview of Licensing Procedures. Applications for Occupational Licenses shall be subject to the following procedures prior to licensing:
   1) Application;
   2) Issuance of a temporary identification badge;
   3) Investigation of the applicant;
   4) Action of the Board; and
   5) Different or additional licensing procedures as required of the applicant by the Board.

b) Temporary Identification Badge Requirements
   1) Each occupational applicant shall receive from his employer a partially completed temporary identification badge. The applicant ~~Applicant~~ shall deliver such badge to a Board agent at applicant's employer's dock site facility for processing and completion.
   2) The Temporary identification badge shall:
      A) Be a white 3-1/2" by 2" card bearing the name and logo of the Riverboat Gaming Operation;
      B) Provide space for a 1" by 1-1/4" photograph;
      C) Display applicant's first name and job title;
      D) Provide a space for an eight (8) digit number;
      E) Provide a space for the Administrator's signature;
      F) Provide spaces for the dates of issuance and expiration of such temporary badge; and
      G) Provide on the reverse side a line for the employee's last name, signature, social security number and date of birth.
   3) Upon presentation of the partially completed badge to a Board agent at the dock facility, the applicant shall be photographed

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and fingerprinted by the agent who shall complete and laminate the badge.
   4) A temporary identification badge will not be issued if the Administrator or his designated agent has reason to believe the applicant is the subject of a pending investigation or disciplinary action or is ineligible for licensing pursuant to Section 9(a)(1) or (9)(a)(2) of the Act. If the temporary identification badge is not issued, the applicant is not permitted to work for the Riverboat Gaming Operation until and unless the Board issues a license to the applicant.
   54) Temporary identification badges are not transferable and upon resignation or termination of employment, must be returned by the Occupational License ~~occupational license~~ applicant to the holder of an Owner's License ~~license~~ or to the Board. If returned to the holder of an Owner's License ~~license~~, the holder must then return the badge to the Board.
   65) Withdrawal of Temporary Identification Badge ~~temporary identification badge~~.
      A) The Administrator, upon written notification to the applicant and the holder of the Owner's License ~~license~~, may withdraw an applicant's ~~Applicant's~~ temporary identification badge upon determining a recommendation of denial to the Board.
      B) If an applicant's temporary identification badge is withdrawn, the applicant is not permitted to work for the Riverboat Gaming Operation ~~riverboat gaming operation~~ until and unless the Board issues a license to the applicant.
      C) If an applicant's temporary identification badge is withdrawn, the applicant's application for licensing will proceed to Board action unless it is withdrawn by the applicant prior to Board action on licensure.

c) Investigation of the Applicant and Application. An applicant is responsible for compliance with all requests for information, documents, or other materials relating to the applicant and his application.

d) Action of the Board
   1) In determining whether to grant such a license, the Board shall consider the character, associations and reputation of the applicant and the qualifications of the applicant to perform the duties of the position to be licensed.
   2) If the Board finds the applicant suitable for licensing, it shall direct the Administrator to issue the applicant a license upon payment of the applicant's license fee. If the applicant's license fee is not received by the Board within 10 business days after the date of mailing notification of the applicant's suitability for licensing to the applicant, the Administrator shall withdraw the applicant's temporary identification badge and report to the Board.

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3) If the Board finds the applicant not suitable for licensing, it shall issue the applicant a Notice of Denial by certified mail or personal delivery.

e) Request for Hearing
   1) An applicant who is served with a Notice of Denial may request a hearing in accordance with Section 3000.405.
   2) If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the applicant's license application.

f) Reapplication for Denied License. If an applicant is denied a license, the applicant may not reapply for a license ~~of the same class~~ within one ~~(1)~~ year from the date on which the final order of denial was voted upon by the Board ~~voted to deny his application~~, without leave of the Board.

g) Permanent Identification Badge Requirements
   1) Upon notification of a finding of suitability by the Board and issuance of an Occupational License to applicant, applicant shall receive from his employer a partially completed permanent identification badge. Applicant shall deliver such badge to a Board agent at applicant's dock site facility for completion and processing.
   2) The permanent identification badge shall:
      A) Be of a color selected by the Riverboat Gaming Operation for use on all permanent identification badges utilized by its occupational licensees ~~Occupational Licensees~~;
      B) Be a 3-1/2" by 2" card bearing the name and logo of the Riverboat Gaming Operation;
      C) Provide space for a 1" by 1-1/4" photograph;
      D) Provide a space for an eight ~~(8)~~ digit number;
      E) Display the employee's first name and job title;
      F) Provide a space for the Administrator's signature;
      G) Provide a space for the dates of issuance and expiration of applicant's Occupational License;
      H) Provide on the reverse side of the card a line for the employee's last name, signature, social security number and date of birth.
   3) Permanent identification badges are not transferable and upon resignation or termination of employment must be returned by the occupational licensee to the holder of an Owner's License ~~license~~ or to the Board. If returned to the holder of an Owner's License ~~license~~, the holder must then return the badge to the Board.

h) Display of Identification Badges
   Identification badges as required by subsections 3000.245(b) and (g) of this Section shall be worn by all employees during work hours~~;--and by--occupational--licensees,~~ including those such persons employed on the dock site. Identification badges shall be clearly displayed.

i) A fee of $10.00 shall be paid to the Board for any necessary replacement(s) of identification badges.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.270 Certification and Registration of Electronic Gaming Devices

a) The Administrator will review all Electronic Gaming Devices for proper mechanical and electronic functioning. Before certification of an Electronic Gaming Device, the Administrator may employ the services of an independent electronics laboratory to evaluate the device.

b) After completing evaluations of the Electronic Gaming Device, the Administrator may certify the Electronic Gaming Device for registration.

c) Gaming shall be prohibited with any Electronic Gaming Device which has not been registered with the Board.

d) The holder of an Owner's License shall not operate in Illinois an Electronic Gaming Device unless the Electronic Gaming Device has an Illinois Gaming Board registration number.

e) The Supplier of the Electronic Gaming Device, after receiving the appropriate documentation, shall reimburse the Board for any cost incurred in any evaluation process.

f) The holder of an Owner's License shall not alter the operation of registered Electronic Gaming Devices and shall maintain the Electronic Gaming Devices in a suitable condition. Each holder of an Owner's License shall keep a written list of any repairs made to Electronic Gaming Devices offered for play to the public. Repairs include, without limitation, replacement of parts that may affect the Game's outcome. The holder of an Owner's License shall make the list available for inspection by the Administrator upon request.

g) The holder of an Owner's License shall keep a written list of the date of each distribution, the serial number of each Electronic Gaming Device, and the Illinois Gaming Board registration number.

~~h) The holder of an Owner's license shall not dispose of any Electronic Gaming Device without prior written approval of the Administrator.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.271 Analysis of Questioned Electronic Gaming Devices

a) If the operation of any Electronic Gaming Device is questioned by a Board agent, the questioned device will be examined in the presence of a Board agent and a representative of the owner licensee. If a malfunction or the cause of a malfunction cannot be cleared or corrected, the Electronic Gaming Device shall be subjected to an EPROM analysis to verify the EPROM's Signature validity.

b) In the event that a malfunction cannot be cleared or corrected following the EPROM analysis under subsection (a), the Electronic Gaming Device may be removed from service and secured. The Electronic

Gaming Device may then be transported to an industry-recognized laboratory selected by the Administrator where the device will be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis will be borne by the owner licensee, and will be billed to the owner licensee by the Board.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.280 ~~Application for~~ Registration of All ~~for all~~ Gaming Devices

a) Any holder of an Owner's License who possesses ~~intends to possess~~ any Gaming Devices shall have a ~~file an application for a registration for each device.~~ A registration tag shall be issued by the Board and be securely affixed on each device.

b) Registration tags are not transferable from one Gaming Device to another device.

c) Any Gaming Device without a current registration tag shall be subject to seizure. Any agent of the Board may demand and gain access to any property relating to a Riverboat Gaming Operation, inclusive of Support Facilities, and seize any Gaming Device which does not bear a current registration tag or is operating in a manner that violates any provision of the Act, Board Rules or an owner licensee's Internal Control System. Such Gaming Devices so seized shall be subject to confiscation and forfeiture. In the event the Board seizes Gaming Devices in accordance with this Section, the Board shall notify the owner licensee of such seizure and of the owner licensee's right to a hearing under Subpart K of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.281 Transfer of Registration (Repealed)

~~Registrations are not transferable from one Gaming Device to another device.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 3000.282 Seizure of Gaming Devices (Repealed)

~~Any Gaming Device without a current registration tag shall be subject to seizure. Any agent of the Board may demand and gain access to any property relating to a Riverboat Gaming Operation, inclusive of Support Facilities, and seize any Gaming Device which does not bear a current registration tag or is operating in a manner that violates any provision of the Act, Board Rules or a holder's Internal Control System. Such Gaming Devices so seized shall be subject to confiscation and forfeiture. In the event the Board seizes Gaming Devices in accordance with this Section, the Board shall notify the holder of an Owner's license of such seizure and of the holder's right to a hearing under Subpart K of this Part.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 3000.283 Analysis of Questioned Electronic Gaming Devices (Repealed)

~~a) If the operation of any Electronic Gaming Device is questioned by any holder of an Owner's license, patron or Board agent, the questioned device will be examined in the presence of a Board agent and a representative of the holder of an Owner's license. If the malfunction cannot be cleared by other means to the mutual satisfaction of the patron and the holder of an Owner's license, the Electronic Gaming Device will be subjected to an EPROM memory test to verify "signature" comparison by a Board agent.~~

~~b) In the event that the malfunction cannot be determined and corrected by this testing, the Electronic Gaming Device may be removed from service and secured in a remote locked compartment. The Electronic Gaming Device may then be transported to an industry recognized laboratory selected by the Administrator where the device will be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis will be borne by the holder of an Owner's license, and will be billed to the holder of an Owner's license by the Board.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 3000.284 Disposal of Gaming Devices

The holder of an Owner's License shall not dispose of an Electronic or Live Gaming Device without prior written approval from the Administrator. The owner licensee shall dispose of other Gaming Equipment only as prescribed in its approved Internal Control System.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART D: HEARINGS ON NOTICE OF DENIAL, RESTRICTION OF LICENSE OR PLACEMENT ON EXCLUSION LIST

Section 3000.400 Coverage of Subpart

The rules contained in this Subpart shall govern all hearings requested upon issuance of a Notice of Denial or Restriction of licensure, Notice of Denial of an application for transfer of ownership interest, or a Notice of Placement on

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Exclusion List. Hearings under this Subpart are de novo proceedings for the creation of an evidentiary record regarding restriction of license, the placement of an individual on an exclusion list or an applicant's suitability for licensure or transfer. A hearing under this Subpart is not an appeal of Board action.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.405 Requests for Hearings

a) All requests for hearings must:
   1) Be in writing;
   2) State the name, current address and current telephone number of the petitioner; and
   3) State in detail the reasons why and the facts upon which the petitioner will rely to show, in cases involving licensing or transfer of ownership, that the petitioner is suitable for licensure or transfer, including specific responses to any facts enumerated in the Board's Notice of Denial. In matters involving exclusion, the petitioner shall state in detail the reasons why and the facts upon which the petitioner will rely to demonstrate why he should not be excluded. In matters involving restriction of licensure the petitioner shall state in detail the reasons why and the facts upon which the petitioner will rely to demonstrate why the license should not be restricted.
   4) All requests for hearings must be verified. Such verification shall be notarized and shall include a certification in the following form:
      The undersigned certifies that the statements set forth in this request for hearing are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

b) A request for hearing must be submitted within five ~~(5)~~ days after the date of delivery of the Notice of Denial or Restriction of license. A request for hearing must be submitted within ~~thirty-(~~ 30~~)~~ days after the date of delivery of Notice of Exclusion.
   1) The petitioner may submit a request for hearing by:
      A) Personal Delivery;
      B) Certified Mail, postage prepaid; or
      C) Overnight express mail, postage prepaid.
   2) All requests for hearings must be submitted to the Administrator, with a copy sent to the Chief Legal Counsel at the Board's offices in either Springfield or Cook County.
   3) A request for hearing submitted by certified mail or overnight express mail shall be deemed timely submitted if it is postmarked no later than five ~~(5)~~ days after date of delivery of a Notice of

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Denial or Restriction in accordance with the Act, or ~~thirty-(~~ 30~~)~~ days after service of the Notice of Exclusion.

c) A request for hearing should be deemed granted, unless denied. The Board may deny a request for hearing if the statement of reasons and facts which it contains does not establish a prima facie case.

d) A request for hearing may not be withdrawn or voluntarily dismissed if the Board determines that withdrawal or voluntary dismissal is not in the best interests of the public and the Gaming industry. If the Board allows an applicant to withdraw a hearing request, the initial denial or restriction of license or the order of exclusion becomes a final Board order on the date leave to withdraw is granted. If the Petitioner does not prosecute his case after 21 days, the Board may move for entry of default judgment. Failure to prosecute shall result in the entry of a default judgment against Petitioner.

e) The Chairman of the Board may appoint a Board member or an Administrative Law Judge to conduct a hearing in accordance with this Subpart. If designated, the Administrator may appoint an Administrative Law Judge to conduct a hearing in accordance with this Subpart. The petitioner will be copied on the letter of appointment and such letter will serve as notice of the pendency of the hearing. The Administrative Law Judge shall establish a status date and notify the parties thereof.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.415 Discovery

a) Upon written request served on the opposing party, a party shall be entitled to:
   1) The name and address of any witness who may be reasonably expected ~~called~~ to testify on behalf of the opposing party; and
   2) All documents or other materials in the possession or control of the opposing party which the opposing party reasonably expects will be necessary to introduce into evidence. Petitioner's burden of production includes those documents Petitioner reasonably expects to introduce into evidence either in his case-in-chief or in rebuttal. Rebuttal documents, to the extent they are not immediately identifiable, shall be tendered to Respondent within two (2) weeks after receipt of documents tendered to Petitioner by Respondent unless additional time is granted by the hearing officer.

b) Discovery may be obtained only through written requests to produce witness lists, documents or other materials, as specified in subsection (a) of this Section. Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.

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~~c) Subpoenas for the attendance of witnesses at hearing may be served by the petitioner only upon application to the hearing officer:~~

~~1) The petitioner must show good cause; state the testimony to be elicited from a witness; why the evidence to which the testimony relates cannot otherwise be obtained; and state the reasons why the testimony is necessary and relevant;~~

~~2) An agent or employee of the Board may not be required to appear except under the procedures provided in this Section;~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.420 Motions for Summary Judgment

The hearing officer may recommend the granting or denial of a ~~directed finding~~ or summary judgment motion upon the filing of an appropriate motion by any party. A recommendation for denial of a summary judgment motion shall not be considered by the Board until the completion of proceedings held pursuant to Section 3000.425.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.424 Subpoena of Witnesses

a) Subpoenas for the attendance of witnesses at hearing may be served by the Petitioner only upon application to the hearing officer.
   1) The Petitioner must show good cause, state the testimony to be elicited from a witness, state why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant.
   2) An agent or employee of the Board may not be required by the Petitioner to appear except under the procedures provided in this Section.

b) The Chief Counsel of the Board or the Administrator may issue subpoenas for the attendance of witnesses or subpoenas duces tecum for the production of relevant documents, records or other material at a proceeding conducted under this Subpart D.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART F: CONDUCT OF GAMING

Section 3000.600 Wagering Only with Approved Chips, Tokens and Electronic Cards

Riverboat Gaming Wagers may be made only with Chips, Tokens or Electronic Cards

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~~electronic cards~~ approved by the Administrator and purchased from a holder of an Owner's License ~~license~~. Such Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System ~~while aboard the Riverboat~~. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn in the form of Tokens from the Electronic Gaming Device.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.602 Disposition of Unauthorized Winnings

Any jackpot or other winnings claimed by patrons of a Riverboat Gaming Operation as a result of unauthorized or prohibited Gaming shall not be paid to such patrons, but shall be paid immediately by the owner licensee to the Board and deposited into the Education Assistance Fund.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.605 Authorized Games

No holder of an Owner's License shall permit any Game to be played other than those ~~specifically named in the Act or~~ approved by the Board. The Administrator shall maintain a list of Board-approved Games and the definitions of those Games. For each Game for which approval of the Board is sought, the holder of an Owner's License shall provide a definition of the Game as well as a set of Game rules to the Administrator 120 days in advance of the Game's proposed operation or within such time period as the Administrator may designate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.606 Gaming Positions

The holder of an Owner's License shall limit the number of Gaming Participants to 1,200 for any such license. The number of Gaming Participants will be determined by the number of Gaming positions available and such positions will be counted as follows:

a) Positions for Games utilizing Electronic Gaming Devices will be determined as 90 percent of the total number of devices available for play;
b) Craps tables will be counted as having ten Gaming positions;
c) Games utilizing Live Gaming Devices, except as provided in subsection (b) will be counted as having five Gaming positions.

(Source: Added at 20 Ill. Reg. _____, effective

_____)

Section 3000.625 Chip Specifications

a) Value Chips
   1) Each Chip issued by a holder of an Owner's License shall be round in shape, have clearly and permanently impressed, engraved or imprinted thereon the name of the Riverboat Gaming Operation and the specific value of the Chip, except that a holder of an Owner's License may issue Gaming Chips without a value impressed, engraved or imprinted thereon for Roulette. Chips with a value contained thereon shall be known as "Value Chips" and Chips without a value contained thereon shall be known as "Non-Value Chips."
   2) Value Chips may be issued by the holder of the Owner's License in denominations of $.50, $1.00, $2.50, $5.00, $20.00, $25.00, $100.00, $500.00, $1,000.00 and $5,000.00. The holder of the Owner's License shall have the discretion to determine the denominations to be utilized on its Riverboat and the amount of each denomination necessary for the conduct of Gaming operations.
   3) Each denomination of Value Chip shall have a different primary color from every other denomination of Value Chip. Value Chips shall fall within the colors set forth below when such Chips are viewed both in daylight and under incandescent light. In conjunction with such primary colors, each holder of an Owner's License shall utilize contrasting secondary colors for the edge spots on each denomination of Value Chip. Unless otherwise approved by the Administrator, no holder of an Owner's License shall use a secondary color on a specific denomination of Chip identical to the secondary color used by another holder of an Owner's License on that same denomination of the Value Chip. The primary color to be utilized by each holder of an Owner's License for each denomination of Value Chip shall be:
      A) $0.50 - "Mustard Yellow";
      B) $1.00 - "White";
      C) $2.50 - "Pink";
      D) $5.00 - "Red";
      E) $20.00 - "Yellow";
      F) $25.00 - "Green";
      G) $100.00 - "Black";
      H) $500.00 - "Purple";
      I) $1,000.00 - "Fire Orange"; and
      J) $5,000.00 - "Gray".
   4) Each denomination of Value Chip utilized by a holder of an Owner's License shall, unless otherwise authorized by the Administrator:
      A) Have its center portion, which contains the value of the Chip and the Riverboat Gaming Operation issuing it, of a different shape for each denomination;
      B) Be designed so as to be able to determine on closed circuit black and white television the specific denomination of such Chip when placed in a stack of Chips of other denominations; and
      C) Be designed, manufactured and constructed so as to prevent, to the greatest extent possible, the counterfeiting of such Chips.
   5) The Board shall have the discretion to approve a Value Chip in the denomination of $1,000.00 or $5,000.00 at variance with the requirements of this Section provided that any variation is specifically identified as such by the holder of the Owner's License and provided further that said variation does not affect the control, security or integrity of said Chips or the operation of the Games.

b) Non-Value Chips
   1) Each Non-Value Chip utilized by a Riverboat shall be issued solely for the purpose of Gaming at roulette ~~Roulette~~. The Non-Value Chips at each roulette ~~Roulette~~ table shall:
      A) Have the name of the Riverboat Gaming Operation issuing it molded into its center;
      B) Contain a design, insert or symbol differentiating it from the Non-Value Chips being used at every other roulette ~~Roulette~~ table in the Riverboat;
      C) Have "roulette ~~Roulette~~" impressed on it; and
      D) Be designed, manufactured and constructed so as to prevent, to the greatest extent possible, the counterfeiting of such Chips.
   2) Non-Value Chips issued at a roulette ~~Roulette~~ table shall only be used for Gaming at that table and shall not be used for Gaming at any other table in the Riverboat nor shall any holder of an Owner's License or its employees allow any Riverboat patron to remove Non-Value Chips permanently from the table from which they were issued.
   3) No person at a roulette ~~Roulette~~ table shall be issued or permitted to Game with Non-Value Chips that are identical in color and design to Value Chips or to Non-Value Chips being used by another person at the same table. When a patron purchases Non-Value Chips, a Non-Value Chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the Roulette ~~Roulette~~ wheel. At that time, a marker button denoting the value of a stack of ~~twenty~~ (~~20~~) Chips of that color shall be placed in the slot or receptacle.
   4) Non-Value Chips shall only be presented for redemption at the table from which they were issued and shall not be redeemed or exchanged at any other location in the Riverboat Gaming Operation. When so presented, the dealer at such table shall exchange them for an equivalent amount of Value Chips which may

then be used by the patron in Gaming or redeemed as any other Value Chips.

5) Each holder of an Owner's License shall have the discretion to permit, limit or prohibit the use of Value Chips in Gaming at roulette ~~Roulette~~ provided, however, that it shall be the responsibility of the holder of an Owner's License to keep accurate account of the Wagers being made at roulette ~~Roulette~~ with Value Chips so that the Wagers made by the one player are not confused with those made by another player at the table.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.635 Issuance and Use of Tokens for Gaming ~~in--Electronic--Gaming Devices~~

a) No holder of an Owner's License ~~license~~ shall issue or cause to be utilized in a Riverboat Gaming Operation any Tokens for Gaming ~~in Electronic--Gaming--Devices~~ unless such Tokens are approved by the Administrator. In requesting approval of such Tokens, the holder of an Owner's License ~~license~~ shall first submit to the Administrator a detailed schematic of its proposed Token which shall show its front, back and edge, its diameter and thickness and any logo, design or wording to be contained thereon, all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual Token. Once the design schematics are approved by the Administrator, no Token shall be issued or utilized until a sample of such Token is also submitted and approved by the Administrator.

b) A holder of an Owner's License ~~license~~ may, with the approval of the Administrator, issue metal Tokens designed for Gaming ~~in--its Electronic Gaming Devices~~. Such Tokens shall:

1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;
2) Clearly state the face value of the Token;
3) Contain the statement "Not Legal Tender";
4) Not be deceptively similar to any current or past coin of the United States or a foreign country;
5) Be of a size or shape or have other characteristics which will physically prevent their use to activate lawful vending machines or other machines designed to be operated by coins of the United States; and
6) Not be manufactured from a ferromagnetic material or from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core or from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent ~~(25%)~~ of the Token's weight.

c) Tokens approved for issuance by a holder of an Owner's License ~~license~~ shall be:

1) Issued to a patron upon payment therefor, or in accordance with a complimentary distribution program authorized pursuant to the Act;
2) Capable of insertion into designated Electronic Gaming Devices operated by the holder of an Owner's License ~~license~~ for the purpose of activating play;
3) Available as a payout from the hopper of such Electronic Gaming Devices; and
4) Redeemable by the patron in accordance with the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.640 Exchange of Chips and Tokens

a) Chips shall be issued to a person only at the request of such person and shall not be given as change in any other transaction. Chips shall only be issued to Riverboat patrons at cashier's cages or at the Live Gaming Devices and shall be redeemed only at a cashier's cage.

b) Tokens shall only be issued upon the request of a patron from a cashier's cage, Token Dispenser ~~bill-changer~~ or from employees of the holder of an Owner's License at the Electronic Gaming Device area. Tokens shall be redeemed only at a cashier's cage.

c) Chips or Tokens shall only be redeemed by a holder of an Owner's License from its patrons and shall not be knowingly redeemed from any non-patron source, except where: ~~provided, however, that non-Gaming employees of the Riverboat may redeem Chips or Tokens they have received as gratuities.~~

1) non-Gaming employees of the holder present for redemption Chips or Tokens as provided in the approved Internal Control System of the holder;
2) another holder of an Owner's License presents for redemption Tokens which have been lawfully received by that holder; or
3) subject to approval by the Administrator, a person licensed to conduct Gaming in another jurisdiction presents for redemption Tokens which have been lawfully received by that person.

d) Each Riverboat shall promptly redeem its own Chips and Tokens by cash or by check dated the day of such redemption on an account of the Riverboat, as requested by the patron, except when the Chips and Tokens were obtained or used unlawfully.

e) Each Riverboat may demand the redemption of its Chips or Tokens from any person in possession of them and such person shall redeem said Chips or Tokens upon presentation of an equivalent amount of cash by the Riverboat.

~~f) No Riverboat shall knowingly accept, exchange, use or redeem Gaming Chips or Tokens issued by another Riverboat.~~

fg) Each Riverboat shall cause to be posted and remain posted in a prominent place:

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1) On the front of a cashier's cage a sign that reads as follows: "Gaming Chips issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat"; and
2) On Electronic Gaming Device Token redemption booths a sign that reads as follows: "Tokens issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat".

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.660 Minimum Standards for Electronic Gaming Devices

a) Electronic Gaming Devices shall pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than ~~eighty percent (80%)~~, nor more than ~~one hundred percent (100%)~~ unless otherwise approved by the Administrator. Electronic Gaming Devices that may be affected by player skill must meet this standard when using a method of play that will provide the greatest return to the player over a period of continuous play.
b) Electronic Gaming Devices shall:
   1) Be controlled by a microprocessor or the equivalent;
   2) Be compatible to on-line data monitoring;
   3) Have a separate locked internal enclosure within the device for the circuit board containing the EPROM ~~(computer chips that store memory)~~;
   4) Be able to continue a Game with no data loss after a power failure;
   5) Have previous and current Game data recall;
   6) Have a random selection process that must not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount wagered, or upon the style or method of play;
   7) Clearly display applicable rules of play and the payout schedule;
   8) Display an accurate representation of each Game outcome. After selection of the Game outcome, the Electronic Gaming Device must not make a variable secondary decision which affects the result shown to the player;
   9) Have a complete set of nonvolatile meters including Tokens-in ~~tokens-in~~, Tokens-out ~~tokens-out~~, Tokens dropped~~, total credits wagered, total credits won, number of Games played~~, and jackpots paid;
   10) Make available for random selection at the initiation of each play each ~~Each~~ possible permutation or combination of Game elements which produce winning or losing Game outcomes ~~must be available for random selection at the initiation of each play~~; and
   11) Not automatically alter pay-tables or any function of the Electronic Gaming Device based on internal computation of the hold percentage.

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c) When an Electronic Gaming Device is unable to drop sufficient Tokens for payment of jackpots requiring the payment to be made by the Riverboat, jackpot payout tickets must be prepared containing the following information:
   1) The location of the Electronic Gaming Device;
   2) The date;
   3) The time of day;
   4) The Electronic Gaming Device number;
   5) The amount of the jackpot payout in written and numeric form;
   6) The signature of the holder of an Owner's License or Riverboat Gaming Operation ~~operator~~ employee making the payment; and
   7) A signature of at least one other Riverboat Gaming Operation employee attesting to the accuracy of the form.
d) Electronic Gaming Devices linked to any Progressive Jackpot system shall meet the following specifications:
   1) The value of a Progressive Jackpot shall be clearly displayed above the interlinked Electronic Gaming Devices, and metered incrementally by a Progressive Controller. Any Electronic Gaming Device that offers a Progressive Jackpot, or that is linked to a Progressive Jackpot, must prominently display a manufacturer-supplied ~~(}~~lass indicating the current amount of the jackpot. All Electronic Gaming Devices linked and contributing to a common Progressive Jackpot shall contain EPROMs with identical Theoretical Payout Percentage;
   2) ~~1)~~ A Progressive Jackpot may be transferred to another progressive Electronic Gaming Device at the same location in the event of a device malfunction or replacement, with approval of the Administrator;
   3) ~~2)~~ A holder of an Owner's License may impose a limit on the jackpot of an Electronic Gaming Device which is linked to any Progressive Controller as long as the minimum payout is greater than the possible maximum jackpot payout showing on any individual Electronic Gaming Device linked to the Progressive Jackpot;
   4) ~~3)~~ No Progressive Jackpot ~~payoff~~ indicator shall be cancelled or turned back to a lesser amount unless one of the following circumstances occurs:
      A) The amount shown on the progressive meter is paid to a player as a jackpot;
      B) It becomes necessary to adjust the progressive meter to prevent the jackpot indicator from displaying an amount greater than the limit imposed by the Riverboat Gaming Operation pursuant to these rules; and
      C) It becomes necessary to change the jackpot indicator because of an Electronic Gaming Device malfunction, in which case such malfunction and adjustment must be recorded by appropriate Electronic Gaming Device monitoring on-line data system.

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5)4) A holder of an Owner's License who is liable for payment of a Progressive Jackpot must secure the amount of same by a cash deposit, a performance bond, or a security instrument nationally recognized in the Gaming industry. The Administrator must approve all deposits, bonds, or other instruments, and the security instrument must be secured in a method approved by the Administrator.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.665 Integrity of Electronic Gaming Devices

Electronic Gaming Devices shall:

a) Be cashless in operation, and as such, must accept only Electronic Cards or Tokens as Wagers;

b) Be electronic in design and operation and not be electro-mechanical or mechanical in operation;

c) Not subject a player to physical hazards;

d) Contain a surge protector on the line that feeds power to the Electronic Gaming Device. The battery backup or an equivalent for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the Electronic Gaming Device. The backup shall be kept within the locked logic board compartment;

e) Have an on/off switch that controls the electrical current used in the operation of the Electronic Gaming Device and any associated equipment which shall be located in an accessible place within its interior;

f) Be designed so that is shall not be adversely affected by static discharge or other electromagnetic interference;

g) Have at least one electronic Token acceptor. Token acceptors must be designed to accept designated Tokens and reject others. The Token receiver on an Electronic Gaming device must be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All Token acceptors are subject to approval by the Administrator. Tokens accepted but which are inappropriate "token-ins" must be returned to the player by activation of the hopper or credited toward the next play of the Electronic Gaming Device. The Electronic Gaming Device control program must be capable of handling rapidly fed Tokens so that occurrences of inappropriate "token-ins" are prevented;

h) Not be readily accessible in its internal space of the Electronic Gaming Device when the front door is both closed and locked;

i) Have logic boards and ~~software EPROMS (computer--chips--that--store memory);~~ in a locked area within the Electronic Gaming Device, sealed with evidence tape. The evidence tape must be affixed by an authorized Board agent and must include the date, signature and I.D. number of the agent. This tape may only be removed in the presence of ~~by~~ an authorized Board agent;

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j) Have a Token compartment contained in a locked area within or attached to the Electronic Gaming Device;

k) Not contain any hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

l) Contain an unremovable identification plate containing the following information, appearing on the exterior of the Electronic Gaming Device:
   1) Manufacturer;
   2) Serial Number; and
   3) Model Number;~~.~~

m) Contain the rules of play for each Electronic Gaming Device displayed on the face or screen. No rules shall be incomplete, confusing, or misleading. Each Electronic Gaming Device must also display the credits wagered and the credits awarded for the occurrence of each possible winning combination based on the number of credits wagered. All information required by this Section must be kept under glass or another transparent substance and at no time may stickers or other removable items be placed over this information;

n) Have equipment that enables the Electronic Gaming Device to communicate with a central computer system accessible to the Board, using an industry standard protocol data format approved by the Administrator;

o) Be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if an Electronic Gaming Device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;

p) Have attached a drop bucket housed in a locked compartment separate from any compartment of the Electronic Gaming Device;

q) Be capable of detecting and displaying the following error conditions which an attendant may clear:
   1) Token-in jam;
   2) Token-out jam;
   3) Hopper empty or time-out;
   4) Program error;
   5) Hopper runaway or extra Token paid out;
   6) Reverse token-in;
   7) Reel error; and
   8) Door open;~~.~~

r) Use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the Electronic Gaming Device;

s) Display an Illinois Gaming ~~Registration~~ Board registration number permanently imprinted, affixed or impressed on the outside of the Electronic Gaming Devices;

t) Have the capacity to display on the front of each Electronic Gaming Device its rules of play, character combinations requiring payouts,

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and the amount of the related payouts. In addition, the holder of an Owner's License shall display on each Electronic Gaming Device either:

1) A clear description of any merchandise or thing of value offered as a payout, including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the holder of an Owner's License establishes a time limit upon initially offering the merchandise or thing of value and the availability or unavailability to the patron of the optional cash equivalent value; or
2) The name or a brief description or the merchandise or thing of value offered; provided, however, a sign containing the information specified in subsection (t)(1) shall be displayed in a prominent location approved by the Board near the Electronic Gaming Device;

u) Have a mechanical, electrical, or electronic device that automatically precludes a player from operating the Electronic Gaming Device after a jackpot requiring a manual payout and requires an attendant to reactivate the Electronic Gaming Device.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.666 Bill Validator Requirements

a) Bill Validators shall be limited to accepting United States currency in denominations of not less than $1.00 and not more than $100.
b) Each bill accepted by the Bill Validator shall be registered at its face value as a bill vended and this information must be provided through a communications interface to a separate accounting facility of the Riverboat Gaming Operation, as well as being registered as such with the Riverboat Gaming Operation's centralized, on-line computer monitoring system.
c) All currency accepted and stored within the Bill Validator shall be accessible only to designated Riverboat Gaming Operation personnel via an externally locked compartment door which does not allow for access to the Electronic Gaming Device door.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.670 Computer Monitoring Requirements of Electronic Gaming Devices

a) The holder of an Owner's License must have a computer connected to all Electronic Gaming Devices in the Riverboat to record and monitor the activities of such devices. No Electronic Gaming Device shall be operated unless it is on-line and communicating to a computer monitoring system approved by the Administrator. Such computer

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monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Administrator.

b) The computer permitted by subsection (a) of this Section shall be designed and operated to automatically perform and report functions relating to Electronic Gaming Device meters, and other exceptional functions and reports in the Riverboat as follows:
   1) Record the number and total value of Tokens placed in the Electronic Gaming Device for the purpose of activating play;
   2) Record the number and total value of Tokens deposited in the drop bucket of the Electronic Gaming Device;
   3) Record the number and total value of Tokens automatically paid by the Electronic Gaming Device as the result of a jackpot;
   4) Record the number and total value of Tokens to be paid manually as the result of a jackpot;
   5) Have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of any device malfunction, any type of tampering, and any open door to the Electronic Gaming Device or drop area. In addition, any person opening the Electronic Gaming Device or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry;
   6) Be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the Electronic Gaming Device as a result of a fill, and any Tokens removed from the Electronic Gaming Device in the form of a credit; and
   7) Identify any Electronic Gaming Device taken off-line or placed on-line of the computer monitor system, including date, time, and Electronic Gaming Device identification number.
c) The holder of an Owner's License shall store, in machine-readable format, all information required by subsection (b) for the period of one ~~(1)~~ year. The holder of an Owner's License shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available in the format and media approved by the Administrator.
d) In addition to the requirements of subsection (c), the owner licensee shall store, in machine-readable format and by date, time and type of occurrence, all exceptions or events that result in an Electronic Gaming Device malfunction or tilt for a period of 21 days.
e)~~d)~~ The secured office facilities for the sole accessibility of Board personnel provided in accordance with Section 3000.810 of these rules shall house a dedicated computer monitoring line which provides computer accessibility to Board personnel to review, monitor and record data identical to that specified in this Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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SUBPART G: EXCLUSION OF PERSONS

Section 3000.720 Criteria for Exclusion or Ejection and Placement on an Exclusion List

The Administrator may place a person on the Exclusion List or eject such person from a Riverboat Gaming Operation ~~pending a hearing~~ if such person has:

a) Been convicted of a felony in any jurisdiction, any crime of moral turpitude or a crime involving Gaming;
b) Violated either the Act or these rules;
c) Performed any act or had a notorious or unsavory reputation which would adversely affect public confidence and trust in Gaming; or ~~and~~
d) His name on any valid and current Exclusion List from another jurisdiction in the United States.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.725 Duty of Licensees

No licensee shall knowingly allow any person excluded pursuant to Section 3000.720 to gamble at or enter the premises of the Riverboat Gaming Operation.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART H: SURVEILLANCE AND SECURITY

Section 3000.800 Required Surveillance Equipment

The holder of an Owner's License ~~license~~ shall install in the Riverboat a closed circuit television system in accord with the specifications herein and shall provide access to the system or its signal by the Board. The closed circuit television must meet or exceed the following specifications:

a) Solid state, black and white cameras, 2/3, ~~or~~ 1/2 or 1/3 format, with minimum 400 plus line resolution installed in fixed positions with matrix control and/or with pan, tilt and zoom capabilities, secreted from public and non-surveillance ~~non-security~~ personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:
   1) The Gaming conducted at the Electronic Gaming Devices;
   2) The master display board and the number or ball selection device for Keno;
   3) The count processes conducted in the count rooms;
   4) The movement of cash, Chips, drop boxes, tip boxes, Token storage boxes, and drop buckets within the Riverboat and any area of transit of uncounted Tokens, Chips, cash and cash equivalents;
   5) Any area where Tokens or Chips can be purchased or redeemed;

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   6) The entrance and exits to the Riverboat and the count rooms;
   7) For all live Games regardless of patron or employee position:
      A) Hands of all Gaming patrons and dealers;
      B) Tray; and
      C) Overall layout of the table area capable of capturing clear individual images of Gaming patrons and dealers, inclusive of, without limitation, facial views and the playing surface so that the outcome of each Game may be clearly observed;
   8) Such other areas as the Administrator designates;
b) Individual solid state, color, television cameras, 2/3, ~~or~~ 1/2 or 1/3 format, with minimum 320 plus line resolution with matrix and/or pan, tilt and zoom capabilities, secreted from public and non-surveillance ~~non-security~~ personnel view augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the following:
   1) Roulette tables, in a manner to clearly observe the Wagers, patrons, and the outcome of each Game;
   2) The operations conducted at the fills and credit area of the cashier's cage(s);
c) All closed circuit cameras equipped with lenses of sufficient magnification to allow the operator to clearly distinguish the value of the Chips, Tokens and playing cards;
d) Video monitors that meet or exceed the resolution requirement for video cameras with solid state circuitry, and time and date insertion capabilities for taping what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least ~~twelve~~ 12 inches and all controls must be front mounted;
e) Video printers capable of adjustment and possessing the capability to generate instantaneously, upon command, a clear, color and/or black and white, copy of the image depicted on the videotape recording;
f) Date and time generators based on a synchronized, central or master clock, recorded on tape and visible on any monitor when recorded;
g) Wiring to prevent tampering. The system must be supplemented with a back-up gas/diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within seven ~~(7)~~ to ten ~~(10)~~ seconds;
h) An additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance of all riverboat entrances/exits and cage areas is continuous;
i) Video switchers capable of both manual and automatic sequential switching for the appropriate cameras;
j) Videotape recorders capable of producing high quality first generation pictures with a horizontal resolution of a minimum of 240 plus lines non-consumer, industrial grade, and recording on a standard 1/2 inch, V.H.S. tape with high-speed scanning and flickerless playback capability in real-time (23 to 30 frames per second). Such videotape recorders must possess time and date insertion capabilities for taping

what is being viewed by any camera in the system;

k) Audio capability in the soft count room; and

l) Adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear videotape and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.810 Riverboat Security and Board Surveillance Room Rooms Requirements

There shall be for the exclusive use of the Board agents and for the use by surveillance employees of the Riverboat Gaming Operation, rooms on each Riverboat for monitoring and recording purposes. The room for the exclusive use of the Board shall be designated the Board Surveillance Room. The room for the use of the surveillance employees of the Riverboat Gaming Operation shall be designated the Riverboat Surveillance Security Room.

a) All equipment that is utilized to monitor or record must remain solely accessible to the Riverboat Surveillance Security Room personnel and be exclusively for Riverboat surveillance ~~and security~~, except when such equipment is being repaired or replaced.

b) Employees or agents of the Riverboat Gaming Operation assigned to monitoring duties in the Riverboat Surveillance Security Room shall have no ~~other Gaming related~~ duties unrelated to surveillance within the Riverboat Gaming Operation.

c) The interior of the Board Surveillance Room and the Riverboat Surveillance Security Room shall not be visible to the public.

d) Each Riverboat shall have a minimum of eight (8) monitors in the Riverboat Surveillance Security Room, and three (3) monitors in the Board Surveillance Room. Each room shall have appropriate switching capabilities to insure that all surveillance cameras are accessible to monitors in both surveillance rooms. The equipment in the Board Surveillance Room must be able to monitor and record, without being overridden, anything visible by monitor to employees of the holder of an Owner's License.

e) The Board and its agents shall at all times be afforded immediate access to the Riverboat Surveillance Security Room, other surveillance areas, and all records relating to such surveillance.

f) The Riverboat Surveillance Security Room and the Board Surveillance Room shall be equipped with all the required surveillance equipment as specified in Section 3000.800.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.830 Surveillance ~~Security~~ Logs

The holder of the Owner's License shall be required to maintain a surveillance ~~Security~~ log of all surveillance activities in the Riverboat Surveillance ~~Security~~ Room. The log shall be maintained by Riverboat Surveillance ~~Security~~ Room personnel. The Board shall have access at all times to the log. The log shall include the following:

a) All persons entering and exiting the Riverboat Surveillance ~~Security~~ Room;

b) Summary, including date, time and duration, of the surveillance; and

c) Record of any equipment or camera malfunctions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.840 Storage and Retrieval

a) All videotape recordings shall be retained for at least five (5) days and shall be listed on a log by surveillance ~~security~~ personnel with the date, times, and identification of the person monitoring or changing the tape in the recorder. Original videotape recordings will be released to the Board upon demand.

b) Any videotape recording illegal or suspected illegal activity shall, upon completion of the tape, be removed from the recorder and etched with date, time and identity of surveillance ~~security~~ personnel. The videotape shall be placed in a separate, secure area and notification given to the Board agent.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART I: LIQUOR LICENSES

Section 3000.900 Liquor Control Commission ~~Commissioner~~

The Illinois Liquor Control Commission shall issue Riverboat liquor licenses to holders of an Owner's License in accordance with the Liquor Control Act of 1934~~, Ill. Rev. Stat. ch. 43, par. 1, et seq. (1990)~~. [235 ILCS 5]

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.910 Liquor Licenses

a) Fees.
The annual license fee shall be $150.00.

b) Duration of license.
All Riverboat liquor licenses issued by the Commission shall be valid

for a period not to exceed one year after issuance, unless revoked or suspended as described in 235 ILCS 5/5-2 ~~Ill. Rev. Stat. 1991, ch. 43, Section 117~~.

c) No Riverboat shall sell liquor without possessing a Temporary Operating Permit or an Owner's License.

d) Display of the liquor license.
Every holder of an Owner's License shall cause the liquor license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section 3000.1020 Standard Financial and Statistical Records

a) The holder of the Owner's License ~~license~~, unless specifically exempted by the Administrator, shall file monthly, quarterly and annual reports of financial and statistical data.

b) The Administrator shall periodically prescribe a set of standard reporting forms and instructions to be used in filing monthly, quarterly and annual reports.

c) Annual reports shall be based on a calendar year beginning January 1 and ending December 31, unless otherwise approved by the Administrator. Quarterly reports shall be based on the calendar quarters ending March 31, June 30, and September 30 and December 31. Monthly reports shall be based on calendar months. Quarterly and monthly reports shall contain a cumulative year-to-date column so as to facilitate analysis.

d) The owner licensee's Chief Executive Officer, or the Chief Executive Officer's designee who is approved by the Administrator, shall be responsible for all reports required to be filed pursuant to this Section.

~~d) The reports required to be filed pursuant to this Section shall be sworn to and signed by:~~

~~1) If from a corporation:~~

~~A) Chief Executive Officer and either the~~

~~B) President, Vice-President, or~~

~~C) Treasurer; or~~

~~D) Controller;~~

~~2) If from a partnership by a General Partner and Financial Director;~~

~~3) If from a sole proprietorship, by the proprietor; or~~

~~4) If from any other form of business association, by the Chief Executive Officer;~~

e) Reports required to be filed pursuant to this Section shall be addressed as prescribed by the Administrator and received no later

than the required filing date. The required filing date for monthly reports shall be the last calendar day of the following month. All other reports required by this Section are due as prescribed in Section 3000.1030(f).

~~e) Reports shall be addressed to the Administrator and postmarked no later than the required filing date. The required filing dates are as follows:~~

~~1) Monthly reports shall be due on the 30th calendar day of the following month;~~

~~2) Quarterly reports shall be due on the 15th calendar day of the second month following the end of the quarter; and~~

~~3) Annual reports shall be due on the 15th calendar day of the third month following the end of the year.~~

f) In the event of a termination or suspension of the Owner's License ~~license~~, voluntary or involuntary change in business entity or material change in ownership, the holder of an Owner's License ~~license~~ shall file an interim quarterly report as of the date of occurrence of such event, unless such event has already been disclosed in a regular quarterly report or unless exempted by the Administrator. The filing date shall be ~~thirty (~~ 30~~)~~ calendar days after the date of occurrence of the event.

g) Any adjustments resulting from the quarterly and annual audits required in Section 3000.1030 ~~3000.1130~~ shall be recorded in the accounting records. In the event that the adjustments were not reflected in the holder of an Owner's License's ~~license's~~ quarterly or annual reports and the Administrator concludes the adjustments are significant, a revised report may be required from the holder of an Owner's License ~~license~~. The revised filing shall be due within ~~thirty (~~ 30~~)~~ calendar days after written notification to the holder of an Owner's License ~~license~~.

h) Delays in mailing, mail pickups, and postmarking are the responsibility of the holder of an Owner's License ~~license~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1030 Annual and Special Audits and Other Reporting Requirements

a) Annual and Special Audits and other reports

1) The Administrator shall direct an audit to be performed of the annual financial statements of the holder of an Owner's License including a report on the Internal Control System communicating any reportable conditions and material weaknesses noted in the course of the audit. Upon written notice by the Administrator other procedures or reports may be required. The annual audit shall be performed by an independent certified public accountant who is or whose firm is licensed in the State of Illinois. The independent certified public accountant who performs the annual

audit shall be selected by the Administrator, and the selection may be based on the recommendation of the holder of an Owner's License.

2) The annual audit and internal control report procedures shall be performed in accordance with generally accepted auditing standards. The annual audit report is to be presented in accordance with generally accepted accounting principles and contain the opinion of the independent certified public accountant as to its fair presentation in accordance with such generally accepted accounting principles.

3) To assure the integrity of Gaming, compliance with the Act and the rules of the Board, the Administrator may require at any time a special audit of an owner licensee to be conducted by Board personnel or an independent certified public accountant who is, or whose firm is, licensed in Illinois. The Administrator shall establish the scope, procedures and reporting requirements of any special audit.

b) Quarterly compliance reports by independent certified public accountants or personnel. The Administrator shall require quarterly compliance reports to be prepared and procedures performed by independent certified public accountants or Board personnel covering the following:

1) Quarterly agreed-upon procedures to ascertain that Admissions and Adjusted Gross Receipts are determined in conformity with the Act and rules of the Board;

2) Semi-annual agreed-upon procedures relating to internal control;

3) Semi-annual "unannounced" observation of the transportation and count of each of the following: Electronic Gaming Device Drop, Table Drop, and tip box drop. For purposes of these procedures, "unannounced" means that no officers, directors or employees of the holder of the Owner's License are given advance information regarding the dates or times of such observations;

4) Review of purchasing functions and contractual agreements, both oral and written, on a sample basis, in order to report on compliance with the owner licensee's Internal Control System and to determine that such purchases and contractual agreements are not in excess of their fair market value. This review shall be conducted at least annually at the direction of the Administrator; and

5) Quarterly reports on deviations from the owner licensee's approved Internal Control System based on procedures performed in the reports of Admissions and Adjusted Gross Receipts, procedures relating to internal control, purchasing and contracting functions and/or "unannounced" observations.

c) Independent certified public accountants performing annual audits shall not perform compliance services on behalf of the Administrator for the same owner licensees.

d) Independent certified public accountants who perform compliance

services to an owner licensee on behalf of the Administrator shall not perform an annual audit or any other service for such owner licensee during the terms of their engagement and for a period of two years following termination of the engagement.

e) The holder of an Owner's license shall prepare a written response relating to findings noted in the independent certified public accountant's or Board's reports required by subsections (a) and (b) of this Section. The response shall indicate in detail the corrective actions taken. Such response shall be incorporated in the independent certified public accountant's or Board's reports.

f) The Administrator shall determine the number of copies of reports required under this Section and such reports shall be received by the Board or postmarked no later than the required filing date.

1) Quarterly reports for procedures performed in the first three fiscal quarters of an owner licensee's approved fiscal year shall be due not later than two months after the last day of the quarter.

2) Quarterly reports for the procedures performed in the fourth fiscal quarter of the owner licensee's approved fiscal year and the annual reports shall be due not later than three months after the last day of the calendar or fiscal year.

3) Delays in mailing, mail pickups and postmarking are the responsibility of the owner licensee.

g) Owner licensees who are public reporting companies under the Securities and Exchange Act of 1933 or 1934 shall submit four copies of all reports required by the Securities and Exchange Commission to the Administrator. These reports shall be due on the same filing dates as required by the Securities and Exchange Commission.

h) All of the audits and reports required by this Section that are performed by independent certified public accountants shall be prepared at the sole expense of the owner licensee.

i) The reporting year end of the holder of an owner's license shall be December 31 unless otherwise approved by the Administrator.

~~a) The Administrator shall direct an audit to be performed of the financial transactions and conditions of the books, operations of a holder of an Owner's license including the Internal Control System required to be submitted in accordance with subsection (c) of Section 3000.320. The procedures set forth below are the minimum procedures that must be performed. Upon written notice by the Administrator, other procedures may be required. In conjunction with the audit, the independent certified public accountant selected by the Administrator shall perform the following procedures:~~

~~1) On a quarterly basis:~~

~~A) Evaluate the Internal Control System in order to report on material weaknesses in the internal accounting controls. Whenever in the opinion of the independent certified public accountant, there exists no material weaknesses in internal accounting controls, the report shall so state;~~

B) Audit the respective quarter's Adjusted Gross Receipts in accordance with generally accepted auditing standards in order to report on the fair presentation of Adjusted Gross Receipts in conformity with Board Rules;

C) Observe "unannounced" the transportation and count of each of the following: Electronic Gaming Device Drop/Table Drop and tip box. For purposes of these procedures, "unannounced" means that no officers, directors or employees of the holder of the Owner's license are given advance information regarding the dates or times of such observation;

D) Review the terms of contractual agreements, both oral and written, on a sample basis in order to report on compliance with the terms of the contractual agreements and to determine that such contracts are not in excess of their fair market value; and

E) Report on any reportable conditions found during the quarterly procedures required by subsections (a)(1)(A) through (D) of this Section. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which would adversely affect the ability of the holder of an Owner's license to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Reportable conditions that are also material weaknesses shall be identified as such in the report. Nonreportable conditions discovered by the independent certified public accountant shall also be reported.

2) On an annual basis:

A) Evaluate the holder of an Owner's license's Internal Control System in order to report on compliance with the submitted Internal Control System approved by the Administrator. Whenever in the opinion of the independent certified public accountant, the holder of an Owner's license has deviated from the submitted Internal Control System approved by the Administrator or the accounts, records, and control procedures examined are not maintained by the holder of the Owner's license in accordance with the Act and these rules, the report shall enumerate such deviations, regardless of materiality, and such areas of the Internal Control System no longer considered effective and shall make recommendations regarding improvements in the Internal Control System to the Administrator;

B) Audit in accordance with generally accepted auditing standards the financial statements in order to report on the financial statements' fair presentation in conformity with generally accepted accounting principles;

C) Report to the Administrator on reportable conditions found during the annual audit of the financial statements. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which would adversely affect the holder of an Owner's license's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Reportable conditions that are also material weaknesses shall be identified as such in the report. The quarterly reports required by subsection (a)(1)(A) of this Section shall be incorporated into this annual report. Nonreportable conditions discovered by the independent certified public accountant shall also be reported.

b) The holder of an Owner's license shall prepare and send to the Administrator and to the independent certified public accountant a written response to the independent certified public accountant's reports required by subsections (a)(2)(A) and (a)(2)(C) of this Section. The response shall indicate in detail the corrective actions taken. Such response shall be incorporated in the independent certified public accountant's reports. These reports shall be incorporated into one report in a format prescribed by the Administrator.

c) Three (3) copies of the reports required by subsection (a) above shall be received by the Board or postmarked, no later than the required filing date.

1) Quarterly reports for the first three quarters shall be due not later than ninety (90) calendar days after the last day of the quarter.

2) Quarterly reports for the fourth quarter and the annual reports shall be due not later than 120 calendar days after the last day of the calendar or fiscal year.

3) Delays in mailing, mail pickups and postmarking are the responsibility of the holder of an Owner's license.

d) All of the audits and reports required by this subsection shall be prepared at the sole expense of the holder of an Owner's license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1040 Accounting Controls Within the Cashier's Cage

a) The assets for which the cashiers are responsible shall be maintained on an imprest basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record on a cashier's count sheet the face value of each cashier's cage inventory item counted and the total of the opening and closing cashier's cage inventories and shall reconcile the total closing inventory to the total opening inventory. The

cashiers shall sign the completed cashier's count sheet attesting to the accuracy of the information contained on the cashier's count sheet.

b) At the conclusion of each day, at a minimum, a copy of the cashier's count sheet and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms records, and documents required by this Section, and recording of transactions.

c) All accounting controls within the cashiers cage shall conform with the approved Internal Control System as required under Subpart C of this Part ~~Section 3000.330~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1050 Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit

a) Except as otherwise provided in this Section, no holder of an Owner's License ~~license~~ shall make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in Gaming activity. The failure to deposit for collection a negotiable instrument by the next banking day following receipt shall be considered an extension of credit.

b) A holder of an Owner's License ~~license~~ may extend credit to a patron only in the manner(s) provided in its Internal Control System approved by the Administrator.

c) The Internal Control System shall provide ~~that~~:

1) Each credit transaction is promptly and accurately recorded in appropriate credit records;

~~2) Coupon redemption and other complimentary distribution program transactions are promptly and accurately recorded; and~~

23) Credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history and income of the patron;

3) Policies and procedures for the authorization and issuance of check cashing privileges which shall ensure that all patrons who cash checks over $500 establish check cashing privileges. These procedures shall include the approval process for establishing these privileges and setting check cashing limits;

4) Only the following checks may be cashed at a casino cage:

A) Personal checks;

B) Cashier's checks;

C) Money orders;

D) Credit Card Advance Checks;

E) Traveler's checks; and

F) Wire transfer service checks.

d) No credit shall be extended beyond thirty (30) days. In the event that a patron has not paid a debt created under this Section within ~~thirty (~~ 30) days, a holder of an Owner's License ~~license~~ shall not further extend credit to the patron while such debt is outstanding.

e) A holder of a Owner's License ~~license~~ shall be liable as an insurer, for all collection activities on the debt of a patron, whether such activities occur in the name of the owner or a third party.

f) The holder of an Owner's License ~~license~~ shall provide to the Administrator a monthly report detailing credit issued and outstanding, collection activities taken and settlements of all disputed checks and disputed credit card charges.

g) The value of Chips or Tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of Gross Receipts.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1070 Tips or Gratuities

a) No Gaming employee shall accept currency as a tip or gratuity from any patron.

b) No Riverboat Gaming Operation Key Person, boxperson, floorperson or any other employee who serves in a supervisory position shall accept any tip or gratuity from any player or patron of the Riverboat Gaming Operation where he is employed. No Riverboat Gaming Operation Key Person or employee shall solicit any such tip or gratuity. The holder of an Owner's license shall not permit any practices prohibited by subsection (a) above.

c) All tips and gratuities given to dealers shall be:

1) Immediately deposited in a transparent locked box reserved for that purpose, except that:

A) One dollar Chips received as tips shall be either immediately deposited into the transparent locked box or immediately placed in the clear Chip tube which is permanently mounted on the top of the Gaming table. Once the Chip tube is full, the floorperson shall witness the exchange of the one dollar Chips for a higher denomination Chip from the Chip rack. The higher denomination Chip will be immediately deposited into the transparent locked box and the one dollar Chips will be placed in the Chip rack.

B) If Non-Value Chips are received at a roulette ~~Roulette~~ table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette ~~Roulette~~ wheel until after a dealer in the presence of a supervisor has converted them into Value Chips which are immediately deposited in a

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transparent locked box reserved for the purpose;

2) Accounted for by a recorded count conducted by a randomly selected dealer and a randomly selected non-gaming employee;

3) Placed in a pool for pro rata distribution among the designated employees ~~dealers on a basis that coincides with the normal pay period, with the distribution based upon the number of hours each dealer has worked~~. Tips or gratuities from this pool shall be deposited into the holder of an Owner's License's ~~license's~~ payroll account. Distributions ~~to dealers~~ from this pool shall be made following the holder of an Owner's License's ~~license's~~ payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

~~d) Upon receipt from a patron of a tip or gratuity, a dealer assigned to the Gaming table shall extend his arm in an overt motion, and deposit such tip or gratuity in the transparent locked box reserved for such purpose.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1071 Deposits of Admission Tax and Wagering Tax

a) Each holder of an Owner's License ~~license~~ shall maintain an account at a designated financial institution capable of handling electronic fund transfers. The holder of an Owner's License ~~license~~ shall also maintain on deposit a minimum account balance sufficient to cover all tax liabilities due under the Act.

b) Both the Admission and the Wagering Taxes shall be paid via an Electronic Funds Transfer (EFT) system employing an Automated Clearinghouse Debit method (ACH-Debit).

c) ~~Wagering~~ and admission tax payments shall be transferred to the Board's designated depository by 3:00 p.m. on the due date. ~~Deposits will be deemed to have been made in a timely manner when the appropriate account number and the required tax payment information is provided to the Administrator, no later than 12:00 p.m. Central Time on the first day banks in Illinois are next open for business after the close of the business day upon which the liability was established.~~

d) Each holder of an Owner's License ~~license~~ shall, with the agreement of the Administrator, select a ~~twenty-four~~ 24) hour cycle that shall be defined as the Gaming ~~business~~ day for the purpose of establishing the tax schedule and tax liability due dates. The due date for wagering and admission tax schedules and tax payments is defined as one bank business day after the close of the Gaming day upon which the liability was established. For example, if the final cruise for Monday's business ends after midnight (Tuesday a.m.), the tax schedule and tax payment would be due on Wednesday.

e) Minimum reporting requirements include daily number of admissions to

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Gaming excursions, Admission Taxes, daily Gross Receipts, Adjusted Gross Receipts and Wagering Tax and such other information as the Administrator may require on the tax schedule. The tax schedule ~~Authorization~~ forms and detailed instructions will be provided by the Administrator. The tax schedules must be filed with the Illinois Gaming Board no later than 12:00 noon on the due date.

f) The Administrator will be responsible for calculating the allocation of the Admission and Wagering Tax between the State and the unit of local government designated as the home dock of the Riverboat. Payments will be made quarterly by voucher/warrant, subject to appropriation.

g) The excess of funds in the State Gaming Fund will be determined by the Board based upon the difference between the State Gaming Fund balance and outstanding obligations plus commitments at the end of each fiscal year. Commitments shall include any outstanding share of admissions and wagering taxes due to the local governments. Funds generated by this Act shall be transferred ~~paid~~ into the Education Assistance Fund ~~by voucher/warrant, subject to appropriation~~.

h) An owner licensee's failure to comply with the provisions of this Section may subject the owner licensee to penalty and interest pursuant to the Uniform Penalty and Interest Act [35 ILCS 735] and the rules adopted thereunder.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1072 Cash Reserve Requirements

Each holder of an Owner's License ~~license~~ shall maintain, in cash or cash equivalents, an amount sufficient to protect patrons against defaults in Gaming debts owed by the holder of an Owner's License ~~license~~. Cash equivalents are defined as all highly liquid investments with an original maturity of 3 months or less. The cash reserve requirements and any changes thereto shall be submitted in writing to the Administrator.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section 3000.1110 Board Action Against License or Licensee

When notified of facts sufficient to support the seizure of a gaming device under the Act and Section 3000.282 or disciplinary action against a licensee under the Act or Section 3000.110, the Board may order the seizure of a gaming device(s) or take disciplinary action against a licensee. If the Board orders the seizure of a gaming device(s) or takes disciplinary action, it shall immediately notify the holder of the seized gaming device(s) of the seizure or

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the licensee of the disciplinary action taken. Notification shall be by certified mail or personal delivery. Included with such notification shall be a complaint for either seizure or disciplinary action.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1115 Complaint

The complaint shall include a statement of facts supporting the seizure or disciplinary action and the rule or statutory Section with violation of which the licensee is being charged. ~~The complaint shall be accompanied by a certificate of service demonstrating the date of service.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1120 Appearances

a) A licensee may be represented by an attorney who is licensed in Illinois. All attorneys who appear in a representative capacity on behalf of a licensee must file written notice of appearance setting forth:
   1) The name, address and telephone number of the attorney(s);
   2) The name and address of the licensee represented; and
   3) An affirmative statement indicating that the attorney is licensed in Illinois.

b) Only individual attorneys may file appearances. Any attorney who has not filed an appearance may not address the hearing officer or sign pleadings.

~~c) A member in good standing of the bar of the highest court of any state or of any United States District Court may, upon motion, be permitted to argue or conduct a hearing in whole or in part.~~

cd) An attorney may only withdraw his appearance upon written notice to the hearing officer.

de) A licensee may appear on his own behalf.

ef) A partnership may be represented by a partner.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1126 Appointment of Hearing Officer

The Chairman of the Board may appoint a Board member or an Administrative Law Judge to conduct a hearing in accordance with this Subpart. If designated, the Administrator may appoint an Administrative Law Judge to conduct a hearing in accordance with this Subpart.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1130 Discovery

a) Upon written request served on the opposing party, a party shall be entitled to:
   1) The name and address of any witness who may be reasonably expected ~~called~~ to testify on behalf of the opposing party; and
   2) All documents or other materials in the possession or control of the opposing party, which the opposing party reasonably expects will be necessary to introduce into evidence. The licensee's burden of production includes those documents the licensee reasonably expects to introduce into evidence either in his case-in-chief or in a rebuttal case.

b) Discovery may be obtained only through written requests to produce witness lists, documents or other materials, as specified in subsection (a) of this Section. Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.

~~c) Subpoenas for the attendance of witnesses may be served by the licensee only upon application to the hearing officer:~~

~~1) The licensee must show good cause: state the testimony to be elicited from a witness, why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant;~~

~~2) An agent or employee of the Board may not be required to appear except under the procedures provided in this Section.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1135 Motions for Summary Disposition

The hearing officer may recommend the granting or denial of a ~~directed finding or~~ summary judgment motion upon the filing of an appropriate motion by any party. A recommendation for denial of a summary judgment motion shall not be considered by the Board until the completion of proceedings held pursuant to Section 3000.1140.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3000.1139 Subpoena of Witnesses

a) Subpoenas for the attendance of witnesses at hearing may be served by the Petitioner only upon application to the hearing officer.

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1) The Petitioner must show good cause, state the testimony to be elicited from a witness, state why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant.
2) An agent or employee of the Board may not be required by the Petitioner to appear except under the procedures provided in this Section.

b) The Chief Counsel of the Board or the Administrator may issue subpoenas for the attendance of witnesses or subpoenas duces tecum for the production of relevant documents, records or other material at a proceeding conducted under this Subpart K.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 3000.1155 Transmittal of Record and Recommendation to the Board

a) The record shall consist of the following:
1) The Complaint, the Answer and all motions and rulings thereon;
2) All evidence received;
3) A statement of matters officially noticed;
4) Offers of proof, objections and rulings thereon;
5) The recommendations and any findings of fact and conclusions of law made by the hearing officer.

b) Oral proceedings or any part thereof involving contested issues shall be recorded stenographically or by such other means as to adequately insure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party. Said transcript shall be paid for by the requesting party.

c) Upon conclusion of the hearing, the hearing officer shall issue to the Board and the licensee written findings of fact and conclusions of law and his recommendation as to seizure or disciplinary action. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

d) Final Board Order
1) The Board shall review the entire record and shall render a written order including the bases for its decision.
2) Copies of the final Board order shall be served on a licensee by personal delivery, certified mail or overnight express mail.
3) A final Board order shall become effective upon personal delivery to a party or upon posting by certified ~~or--overnight--express~~ mail.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Rules for the Protection, Treatment and Inventory of Archaeological and Paleontological Resources on Public Lands

2) Code Citation: 17 Ill. Adm. Code 4190

3)

Section Numbers:	Proposed Action:
4190.101	New
4190.102	New
4190.103	New
4190.104	New
4190.105	New
4190.106	New
4190.107	New
4190.108	New
4190.109	New
4190.110	New
4190.111	New
4190.112	New
4190.201	New
4190.202	New
4190.203	New
4190.204	New
4190.205	New
4190.206	New
4190.301	New
4190.302	New
4190.303	New
4190.401	New
4190.402	New
4190.403	New
4190.404	New
4190.405	New
4190.406	New
4190.407	New
4190.408	New
4190.409	New
4190.410	New
4190.501	New
4190.601	New
4190.602	New
4190.603	New

4) Statutory Authority: Implementing and authorized by the Archaeological and Paleontological Resources Protection Act [20 ILCS 3435].

5) Complete Description of the Subjects and Issues Involved: These rules explain the procedures to be followed for the protection, treatment and inventory of archeological and paleontological sites on public lands and

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establishes professional standards for archaeologists and paleontologists performing investigations within Illinois. The Act requires a permit to be issued by the Illinois Historic Preservation Agency prior to the disturbance of these resources.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule does not expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

William Wheeler
State Historic Preservation Officer
Illinois Historic Preservation Agency
500 E. Madison Steet
Springfield, IL 62701
(217) 785-9045

12) Initial Regulatory Flexibility Analysis: The Illinois Historic Preservation Agency has determined that this rule will not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not include on either of the 2 most recent agendas because: This rulemaking appeared in the agency's January 1995 agenda but its proposal was delayed.

The full text of the Proposed Rule begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER VI: ILLINOIS HISTORIC PRESERVATION AGENCY

PART 4190: RULES FOR THE PROTECTION, TREATMENT, AND INVENTORY OF ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES ON PUBLIC LANDS

SUBPART A: PROTECTION OF ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES ON PUBLIC LANDS

Section
4190.101 Purpose of Rules
4190.102 Definitions
4190.103 Unexpected Discovery of Archaeological and Paleontological Resources on Public Lands
4190.104 Determination of Agency Involvement
4190.105 Permit Application
4190.106 Issuance of Permits
4190.107 Financial Responsibility
4190.108 Suspension and Revocation of Permits
4190.109 Reports Required
4190.110 Hearings and Appeals
4190.111 Custody and Curation
4190.112 Museum Policy on the Scientific Curation, Conservation, and Loan of Archaeological and Paleontological Resources

SUBPART B: PROHIBITED ACTS; PENALTIES

Section
4190.201 Prohibited Acts; Notification of Agency
4190.202 Criminal Penalties
4190.203 Civil Penalties
4190.204 Civil Damages
4190.205 Penalty Amounts
4190.206 Rewards

SUBPART C: ILLINOIS INVENTORY OF ARCHAEOLOGICAL AND PALEONTOLOGICAL SITES

Section
4190.301 Purpose of Inventory
4190.302 Inventorying of Archaeological and Palentological Sites
4190.303 Release of Site Information

SUBPART D: CERTIFICATION OF PROFESSIONAL ARCHAEOLOGISTS AND PALEONTOLOGISTS

Section
4190.401 Purpose
4190.402 Certification Requirements

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AUTHORITY: Implementing and authorized by the Archaeological and Paleontological Resources Protection Act [20 ILCS 3435].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

SUBPART A: PROTECTION OF ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES ON PUBLIC LANDS

Section 4190.101 Purpose of Rules

These regulations implement the provisions and intent of the Archeological and Paleontological Resources Protection Act [20 ILCS 3435]. The State reserves to itself the exclusive right to control archaeological and paleontological resources on public lands in order to protect and preserve scientific and cultural information, artifacts, and materials. As part of that process, these regulations mandate the maintenance of a State site file containing all known archaeological and paleontological resource locations and set standards for professional archaeologists and paleontologists working within the State of Illinois. Furthermore, it is the purpose of these regulations to encourage the preservation and protection of archaeological and paleontological resources on both private and public lands and to discourage their exploitation and destruction by vandalism, looting, commercial development, and construction. Publicly-owned resources should be considered as scientific and educational preserves that are held in trust for future generations and will be given the highest level of preservation and protection from both planned and unplanned disturbances.

Section 4190.102 Definitions

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"Act" means 20 ILCS 3435, the Archeological and Paleontological Resources Protection Act.

"Adequate historical documentation" is information verifiable through at least two of the following types of independent sources: public records, deeds, maps, and other written and oral sources.

"Agency" means the Illinois Historic Preservation Agency.

"Agency archaeologist" means an archaeologist who is certified at Level III under Section 4190.405(d)(3) of this Part and who is head of the Agency archaeology program.

"Archaeological resources" means any material remains of past human life or activities that are at least 50 years of age, as well as the physical site, location, or context in which those remains are found.

"Attorney General" means the Attorney General of the State of Illinois.

"Certified professional archaeologist" means an archaeologist certified by the Agency as described in Subpart D of this Part.

"Certified professional paleontologist" means a paleontologist certified by the Agency as described in Subpart D of this Part.

"Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way archaeological resources or paleontological resources buried by primary rock bodies or sedimentary units. Each day on which a disturbance takes place is considered a separate offense. Surface collecting of aerially exposed paleontological resources is not considered disturbance under this definition.

"Director" means the Director of the Agency.

"Field investigation" means the study by a certified archaeologist of archaeological resources or by a certified paleontologist of paleontological resources at any land or water location by means of surveying, sampling, excavating, or removing subsurface objects or going on a site with that intent.

"Grave artifacts" means all relics, specimens, or objects of a historical, prehistorical, cultural, archaeological or anthropological nature of human manufacture or use which may be found above or below the surface of the earth and which were associated with human skeletal remains in any unregistered grave.

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"Grave markers" are any tombs, monuments, stones, ornaments, mounds, or other items of human manufacture that is associated with an unregistered grave.

"Historic significance" means that the Director has determined that the archaeological resource has yielded or is likely to yield information concerning past patterns of human settlement, or artifacts or information concerning cultures in Illinois of more than 50 years ago.

"Human skeletal remains" or "human remains" means any part of the body of a deceased person in any stage of decomposition in a context indicating substantial evidence for an intentional or unintentional burial; or a disarticulated or articulated skeleton.

"Illinois Inventory of Archaeological and Paleontological Sites" shall be as described in Subpart C of this Part.

"Inventory" means the Illinois Inventory of Archaeological and Paleontological Sites as described in Subpart C of this Part.

"Material remains of past human life or activities" refers to any physical evidence of human habitation, occupation, use or activity. Such items of evidence include, but are not limited to:

surface, subsurface, or submerged structures (a specific example includes, but is not limited to, shipwrecks),

shelters,

facilities (specific examples include, but are not limited to, forts and mines),

features (specific examples include, but are not limited to: domestic structures, human-made mounds, earthworks, canals, reservoirs, horticultural garden areas, rock alignments, cairns, middens, kilns, and post molds),

surface, subsurface, or submerged concentrations or scatters of artifacts,

whole or fragmentary tools, implements, containers, weapon projectiles, clothing, and ornaments (specific examples of these include, but are not limited to: pottery and other ceramics, basketry, cordage, weavings, coins, bullets, bottles, and other glassware, flaked stone, bone, metal, wood, hide, feathers, and pigments),

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by-products of manufacture or use of human-made or natural materials,

organic waste (specific examples include, but are not limited to: vegetal and animal remains, coprolites),

rock carvings, rock paintings, intaglios, and other works of artistic or symbolic representation,

rockshelters or caves containing any of the foregoing materials,

the physical site or location of any of the foregoing,

any portion or piece of any of the foregoing.

Coins, bullets and unworked minerals and rocks shall not be considered archaeological resources for purposes of the Act unless found in a direct physical relationship with archaeological resources as defined in this Section.

"Material remains of past life or traces" refers to any physical parts of plants or animals, other than humans, and evidence for the existence of past life. Such items of evidence include, but are not limited to:

complete or partial specimens of bones, teeth, and other body parts, including but not limited to feathers, scales, and cuticles, of vertebrate animals,

complete or partial specimens of skeletons, both organic and inorganic, including but not limited to chitin, cuticle, mineral constituents such as calcite and aragonite of shells, and other body parts of invertebrate animals,

complete and partial specimens of plant parts including but not limited to leaves, stems, flowers, spores, pollen, cuticles, fruiting bodies (e.g., seeds), roots, rhizomes, and tubers; and

complete and partial specimens of traces of life including but not limited to casts, molds, impressions, carbonizations, tracks, and stains.

"Mid-continental Region" means that part of the United States that falls within the states of Wisconsin, Michigan, Illinois, Indiana, Ohio, Kentucky, Tennessee, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Missouri, eastern Iowa and southeastern Minnesota.

"Museum" means the Illinois State Museum.

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"Museum Director" means the Director of the Illinois State Museum.

"Paleontological resource" means any significant fossil or material remains of past life, other than human, on public lands including traces or impressions of animals or plants that occur as part of the geological record that are known and are included in the files maintained by the Illinois State Museum under Section 10 of the Act.

"Permit" means a permit issued by the Agency pursuant to this Part.

"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, institution, organization, corporation or a receiver, trustee, guardian or other representatives appointed by order of the court, the Federal and State governments including State Universities created by statute or any city, town, county or other political subdivision of this State, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any state or political subdivision thereof.

"Primary rock body or sedimentary unit" means the rocks or sediments that occur in the location of their original deposition.

"Public lands" means any land owned, but does not include land leased as lessee, by the State of Illinois or its agencies, a State university created by statute, a municipality or a unit of local government.

"Significant material remains or localities" means any archaeological resource that:

is listed in the National Register of Historic Places;

has been formally determined by the Director to be eligible for listing in the National Register of Historic Places as defined in Section 106 of Title 16 of the United States Code;

has been nominated by the Director and the Illinois Historic Sites Advisory Council for listing in the National Register of Historic Places;

meets one or more of the criteria for listing in the National Register of Historic Places, as determined by the Director; or

is listed in the Illinois Register of Historic Places.

"Site" means the physical location of archaeological or paleontological resources.

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"Unregistered grave" means any grave or location (including any unmarked burial site) where a human body has been buried or deposited, that is over 100 years old, and that is not in a cemetery registered with the State Comptroller under the Cemetery Care Act [760 ILCS 100].

Section 4190.103 Unexpected Discovery of Archaeological and Paleontological Resources on Public Lands

a) Notification of Agency. Any person knowing or having reasonable grounds to believe that archaeological or paleontological resources protected by the Act are being disturbed, destroyed, defaced, mutilated, removed, excavated or exposed shall, as soon as possible, notify the Director and a local representative of the responsible land-managing agency.

b) Discovery of an Unregistered Grave Other Than During an Archaeological Excavation. When an unregistered grave is discovered other than during an archaeological excavation subject to regulation by the Agency all activity that may disturb the unregistered grave shall cease immediately and the coroner shall be notified. Such activity shall not resume unless specifically authorized by the coroner if the coroner maintains jurisdiction or by the Director if the Agency assumes jurisdiction. Subsequent treatment of the human remains will be in accordance with the rules and regulations of the Human Skeletal Remains Protection Act [20 ILCS 3440].

c) Discovery of an Unmarked Burial Site or Unregistered Grave During an Archaeological Field Investigation Permitted Under The Act.

1) When an unmarked burial site or unregistered grave is discovered as a result of an archaeological field investigation and the archaeologist finds that the unmarked burial site or unregistered grave represents the burial of an individual who has been dead less than 100 years, the archaeologist shall notify the coroner, and all activity that may disturb the unmarked burial site or unregistered grave shall cease until the coroner authorizes work to resume.

2) If such a unmarked burial site or unregistered grave represents the burial of an individual who has or is presumed to have been dead 100 years or more, the coroner and the agency archaeologist shall be notified, and archaeological activities in the burial site area may not resume until the Agency authorizes the work to resume. Subsequent treatment of the human remains will be in accordance with the rules and regulations of the Human Skeletal Remains Protection Act [20 ILCS 3440].

d) Notification of Owner of Record of Permit Requirements.

1) If a disturbance or impending disturbance of archaeological or paleontological resources is reported to the Director by a person other than the owner of record, the Director shall notify the owner of record of the site by telephone if possible and by certified letter, return receipt requested, of the reported or

impending disturbance of the archaeological and paleontological resources, the requirement that a permit be obtained prior to such disturbance and the liabilities and penalties upon the owner of record for any violation of the Act.

2) In instances where the disturbance or impending disturbance of an archaeological or paleontological site for which specific legal boundaries have not been determined is reported to the Director, the Director may require all activity that may disturb the site to cease until specific legal boundaries can be determined. Such activities shall not resume unless specifically authorized by the Director. The Director may require a field investigation be conducted to determine the specific legal boundaries and to determine the type of archaeological or paleontological resources present.

Section 4190.104 Determination of Agency Involvement

Whenever the Agency assumes jurisdiction over an archaeological or paleontological site, the Director shall determine whether the site is of historic significance or is a protected paleontological resource and if it is possible to preserve in place. If the site is significant and can be preserved in place, the Director shall work with the owner of record to prepare a land management plan to ensure future preservation and protection. If the site is significant and cannot be preserved in place, the Agency may require the preparation of a mitigation, disposition, and curation plan. Any mitigation plan developed shall be carried out in accordance with the following:

a) if there is insufficient information available to determine if the site is significant or to prepare a mitigation plan, the Director shall require that a field investigation of the paleontological or archaeological site locality be conducted by a certified archaeologist or paleontologist prior to making a determination;

b) the consent of the owner of record shall be required for the execution of any mitigation or land management plan;

c) in discoveries where preservation in place is feasible, the owner of record or the owner's agent shall be responsible for the funding and execution of any associated field investigations, curation costs, and implementation of the land management plan;

d) in discoveries related to development where land alteration project activities exist, the owner of record or the owner's agent shall be responsible for the funding and execution of the mitigation, disposition, and curation plans in accordance with the requirements of the Director. Delays shall not count against any contractor's completion date agreement;

e) project activities may resume once necessary archaeological or paleontological excavations in the mitigation plan have been completed and approved by the Director.

Section 4190.105 Permit Application

a) Application to Disturb an Inventoried Archaeological or Paleontological Site. Anyone seeking to disturb an inventoried archaeological or paleontological site must apply to the Director at least five months before the starting date of the proposed project. The applicant must submit two copies of an application proposal to the Agency containing the following information:

1) The significant archaeological or paleontological scientific questions that the research will investigate. The applicant must justify why such investigations can only be undertaken at the publicly-owned site in question or why that site is the optimum choice for those investigations. When the Director is considering the approval of such a request, she or he will take into account that the excavation of publicly-owned archeological resources is detrimental to their long-term preservation and shall not grant such a permit unless there is a compelling need.

2) If the permit request is non-State funded construction or development, the applicant must describe the nature and purpose of the proposed disturbance and justify why preservation of the site in place is not feasible and why removal is in the public interest. The proposal must be sufficiently detailed to allow the Director to arrive at an objective evaluation of the research design, site mitigation justification, field methodology, funding, curation, timeframe, and techniques.

3) When State agencies' monies are used to support an archaeological project, a permit shall be required if there is no impending or planned development or construction.

4) The nature and extent of the work proposed, locational maps, proposed time schedule for excavation, analysis and report preparation, and proposed outlet for public dissemination of the results.

5) The names and addresses of the persons (proposed to be responsible for conducting the field investigations, including detailed resumes of the key project personnel; e.g., the principal investigator, field director and staff directing any specialized analysis), organizational affiliation, if any, and evidence of education and experience.

6) Evidence that personnel named as responsible for carrying out the site excavations in subsection (a)(3) of this Section are certified under Subpart D of this Part as professional historic or prehistoric field archaeologists at the appropriate level and expertise for the field investigation being proposed. If submerged resources are involved, supervisory personnel must be certified as professional underwater archaeologists; if historic archaeological resources are involved, supervisory personnel must be certified as professional historic field archaeologists at the appropriate level; and, if prehistoric resources are involved, supervisory personnel must be certified as professional prehistoric field archaeologists at the appropriate level.

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7) The names and addresses of the persons, if different from the persons named in subsection (a) (3) of this Section, proposed to be responsible for carrying out the terms and conditions of the permit.
8) Evidence of the applicant's ability to initiate, conduct, and complete the proposed work within the proposed time frame, including evidence of funding, logistical support, laboratory facilities, and evidence of past timely and successful completion of similar scale projects.
9) Evidence that an adequate program of site security to protect archaeological or paleontological resources from theft or vandalism will be maintained during all work performed under this permit.
10) Evidence that written consent has been obtained from the owner of record for work proposed on such owner's land.
11) In cases where the specific legal boundaries of a site have not been defined, the Director may require the applicant submit a field investigation report to determine the specific legal boundaries and to determine the extent and nature of the archaeological or paleontological site prior to making a determination on the permit.
12) Evidence, with the written concurrence of the Museum, that any university, museum, or other scientific or educational organization proposed in the application as a temporary repositcry of materials possesses adequate curatorial capability for safeguarding and preserving the archaeological or paleontological resources and all associated records during the term of the permit.
13) The applicant must certify, not later than 30 days after the date the final report is submitted to the Agency, that all artifacts, samples, collections, and originals of records, data, photographs, and other documents resulting from work conducted under the requested permit will be delivered to the Museum in a format consistent with the Museum's curation policy, unless otherwise arranged with the Museum.
14) Evidence that adequate insurance to cover the requested activities is carried by the permittee.

b) Emergency Excavation Permits. In instances in which archaeological or paleontological resources are accidentally exposed or otherwise endangered and where it is not feasible to leave them in place, the Director may, if weather and schedules permit, authorize the excavation or removal of the archaeological or paleontological materials by a certified professional archaeologist or paleontologist or, in their absence, some other authorized person. All costs related thereto shall be borne by the professional archaeologist, paleontologist, authorized person or other person employing or authorizing such excavations or removals.
c) Exceptions.

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1) No permit shall be required under this part for any person conducting activities under other permits, leases, licenses, or entitlements for use, when those activities are exclusively for purposes other than the excavation and/or removal of archaeological or paleontological resources. General earth-moving excavation conducted under a permit or other authorization shall not be construed to mean excavation and/or removal as used in this Section. However, if during the course of such work, archaeological or paleontological resources are discovered, the provisions of Section 4190.103 of this Part are applicable.
2) No permit shall be required under the auspices of this Part for any person collecting on private lands for private purposes any paleontological remains or any rock, coin, bullet, or mineral.
3) No permit shall be required under the auspices of this Part for any person visiting, diving on, viewing, electronically recording, photographing, mapping, drawing, or otherwise recording archaeological or paleontological resources provided that such activities do not result in the disturbance of these resources.
4) No permit is required where the proposed work consists of archaeological survey and/or data recovery undertaken and agreed to in writing by the Agency pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f) or State Agency Historic Resources Preservation Act [20 ILCS 3420] or the activities are permitted pursuant to the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. 1201 et seq.) or the rules and regulations promulgated thereunder or under any law, rule or regulation adopted by the State of Illinois thereunder.
5) No permit is required where the proposed work consists of archaeological survey, testing or excavations undertaken and agreed to in writing by the Agency pursuant to the Human Skeletal Remains Protection Act [20 ILCS 3440].
6) No permit is required where the work consists of surface collecting of aerially exposed paleontological resources that are not covered by the primary rock body or sedimentary unit that has preserved the paleontological resources.

d) Excavation by Agency Personnel. Agency archaeologists carrying out official agency duties required under the Act need not follow the permit application procedures of this Section. However, the Agency shall insure that substantially similar procedures have been followed by other documented means.
e) Application for Certification. Any individual wishing to apply for certification under this Part as a professional archaeologist or paleontologist shall submit a letter of request with appropriate documentation as outlined in Subpart D of this Part to the Director.
f) Restrictions Under Other Laws. Under Federal and other Illinois

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statutory, regulatory, or administrative authorities governing the use of public lands, authorizations may be required for activities which do not require a permit from the Agency. Any person wishing to conduct on public lands any activities related to, but believed to fall outside the scope of, the Act and this Part should consult the Agency or the authority believed to have authority with respect to such activity for the purpose of determining whether any authorization is required.

Section 4190.106 Issuance of Permits

a) Generally. Any permit may contain any terms, conditions or limitations the Agency deems necessary to achieve the intent of the Act. A permit shall identify the person responsible for carrying out the terms and conditions of the permit.

b) Permits for Archaeological or Paleontological Field Investigations. A permit shall be issued pursuant to an application if, after any notifications, consultations and hearings required, the Director finds that:

1) The applicant is qualified to carry out the permitted activity;
2) The proposed activity is undertaken, in the public interest, for the purpose of furthering archaeological or paleontological knowledge or to allow economic development or construction to proceed;
3) The currently available technology and the technology the applicant proposes to use are such that the significant information contained in the archaeological or paleontological resource can be retrieved;
4) The funds and the time the applicant proposes to commit are such that the significant information contained in the archaeological or paleontological resource can be retrieved;
5) The archaeological or paleontological resources which are collected, excavated or removed and the associated records and data will remain the property of the State of Illinois and will be cared for by the Museum. With the approval of the Museum Director, such materials will be available for loan under the provisions of the Museum loan policy;
6) The applicant shall bear the financial responsibility for the cost of reinterment or other treatment, if required by the Director, of any human burials or humans skeletal remains excavated or removed as a result of the permitted activities;
7) At the discretion of the Museum Director, the applicant may bear the financial responsibility for the cost of curation at the Museum of all archaeological or paleontological resources, associated records and data excavated or removed as a result of the permitted activities.

c) Denial of Permits. The Director shall deny an application under Section 4190.105(a) of this Part if:

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1) in the case of economic development or construction, there are reasonable and feasible alternatives to removal of the archaeological or paleontological resources;
2) in the case of archaeological or paleontological research, such research is not deemed to be of such overwhelming importance, scientific significance or necessity as to condone the destruction of the preserved resource;
3) in the case of archaeological or paleontological research, similar research could be performed on unprotected sites not located on public lands;
4) the proposed funding level is not sufficient to complete the proposed project;
5) the application is inadequate, or if any part of the application is found to be deficient;
6) there is any question as to the ownership of the resulting materials;
7) the key project personnel are not adequately trained or lack sufficient experience to successfully complete the proposed project;
8) the facilities and organizational support for the applicant are inadequate to successfully complete the project;
9) the applicant or organization has not satisfactorily complied with the conditions of past permits issued under the Act or the Human Skeletal Remains Protection Act [20 ILCS 3440];
10) the applicant or organization has not satisfactorily complied with the conditions of past contracts signed pursuant to the State Agency Historic Resources Preservation Act [20 ILCS 3420] or the National Historic Preservation Act;
11) the applicant or organization has not completed analysis, report preparation, curational or other obligations engendered by past archaeological efforts on public lands for which they were responsible in a complete or timely manner;
12) the applicant or organization has not contributed information to the Illinois Inventory of Archaeological and Paleontological Sites in a complete and timely manner; or
13) the applicant cannot show evidence of adequate insurance coverage.

d) Permit Conditions.

1) In all permits issued, the Agency shall specify the nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work.
2) The permit shall include names of the persons responsible for conducting the work and, if different, the names of the persons responsible for carrying out the terms and conditions of the permit.
3) In order to minimize damage to lands and to artifacts, specimens or materials to be removed, and in order to insure the recording and preservation of significant data regarding those artifacts,

specimens, materials or sites, the permit may set forth requirements or limitations regarding the methods and equipment to be employed in the removal, the procedures to be followed in documenting the removal and the matters to be covered in the report or reports required to be provided pursuant to Section 4190.109.

4) The permit may require that an authorized representative of the State be present to witness and document the removal of artifacts, specimens or materials from the site.

5) A copy of the issued permit shall be on file with the Agency and the Museum.

6) Unless permit length is defined within the terms of the permit, each permit shall expire at midnight one year after the date of its issuance. Any permit may be revoked by the Director, at any time, upon being convinced that activities are not being conducted under the terms and conditions of the permit. Not less than 30 days prior to the end of the first year from the date of issuance of the permit, the permittee shall provide the Director with a complete report in accordance with Section 4190.109.

7) One copy of the permit shall be at the site of the project, in the possession of the owner of record, the principal investigator of the project or a designated professional archaeologist or paleontologist at the project site.

8) The permit may be examined by the Agency, the Museum, their designated representatives, or the public on demand at any time during the period of the permit.

9) All permits for archaeological investigations issued by the Director are conditional on the applicant demonstrating to the Director, at least 30 days before initiation of field investigations, that the project is fully and adequately funded. The applicant must detail in writing the amount and source of all funding.

10) The Agency may specify such other terms and conditions as deemed necessary, consistent with this Section, to protect public safety and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

e) Initiation Deemed Acceptance. Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

f) No Release Until Obligations Satisfied. The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

g) Extension and Modification. The permittee may request that the Agency extend or modify a permit.

h) Permits for Term in Excess of One Year. The permittee's performance

under any permit issued for a period greater than one year shall be subject to review by the Agency, at least annually.

Section 4190.107 Financial Responsibility

The permit applicant shall bear the cost of field investigations, including the excavation, removal, analysis, conservation, and disposition of all archaeological and paleontological resources.

Section 4190.108 Suspension and Revocation of Permits

a) Suspension of Permits. The Director shall suspend a permit, until conditions leading to the suspension are rectified, if there are indications that:
   1) Any facts in the proposal were misrepresented;
   2) The research design and/or methodology has been changed without authorization from the Director;
   3) New information gathered from the ongoing investigations indicate that the current permit stipulations and conditions are no longer appropriate to protect and preserve the involved resource;
   4) There are violations of the permit conditions; or
   5) Public health or safety is endangered.

b) Revocation of Permit. The Director shall permanently revoke a permit if, after investigation, it is clear that:
   1) Facts in the permit application were willfully misrepresented; or
   2) The permittee refuses or is unable to perform the conditions set forth in the permit as issued by the Director.

Section 4190.109 Reports Required

A final report shall be submitted to the Agency and the Museum within the timeframe established in the permit from those persons whose permits were issued pursuant to Section 4190.105. This report will include the following:

a) Transmittal Statement by the Permittee. This statement will substantiate:
   1) The land on which the excavation occurred has been returned to its normal use or the use interrupted by the discovery and/or excavations of the archaeological or paleontological resources.
   2) Compliance with the terms of the permit.
   3) The final disposition of any recovered human remains.
   4) Evidence of the transfer of any excavated or removed archaeological or paleontological resources to the Museum.

b) Report by Skeletal Analyst. If human remains were encountered during the permit excavations that are subject to the Human Skeletal Remains Protection Act [20 ILCS 3440], the skeletal analyst shall prepare a report on those remains meeting the requirements as presented in that Act.

c) Report by Certified Professional Archaeologist or Paleontologist. The

certified archaeologist or paleontologist shall provide the Agency and the Museum with counterpart copies of reports meeting current professional standards and containing, at a minimum, the following information:

1) Title Page. Each report should have a title page which specifies the author, principal investigator, organization or association, contractor and source of funds, title of report including the nature and location of work, and the date the report was prepared.
2) Abstract. The abstract should include a clear summary indicating the purposes, location, result of fieldwork and laboratory analysis, the new knowledge gained and any recommendations of the report. The abstract should include enough information that it could be quoted as a summary statement in preparing a statement regarding actions in complying with the Act.
3) Table of Contents. This is necessary only in the case of reports exceeding ten text pages in length. The table of contents should provide page locations for the various report subdivisions as well as for figures, tables, references cited, and appendices.
4) Introduction. The introduction shall briefly summarize the purpose of the investigations and the scope of work (contract requirements), including any agencies involved, dates of work, principal personnel, and landowners.
5) Physical Setting as It Relates to an Understanding of the Nature of the Site and Resources. Information should be presented on the geomorphology, soils, vegetation, current land use, potential for site preservation, and any other such pertinent data. A map showing the location of the project in the State should be included as well as a USGS map and any additional maps that clarify location and setting.
6) Context. A summary of any previous archaeological, paleontological and/or historical record of the sites should be provided. The focus shall be on providing information that would aid in understanding and evaluating the importance of the sites in the study. This section should include a description of the information sources consulted including published material, site files, unpublished manuscripts, and informants.
7) Methods. An explicit statement of procedures used to collect and evaluate the site, field and laboratory data, and rationale for the particular procedures utilized should be included in the report. The overall field strategy and the techniques used in the survey and/or excavation should be specified. Maps showing the areas actually covered by on-the-ground inspection should be included. If more than one technique was used in the work, maps or text should specify the techniques used in each particular subarea. Each map should be clear and of appropriate scale and should contain a north arrow, caption, and key to symbols used. All typologies utilized and underlying assumptions must be clearly stated and explained. The techniques and equipment used in collecting and analyzing artifacts and associated data should be specified (e.g., types of preservatives and adhesives used in stabilizing the material, types of instruments used in making measurements, statistical techniques employed in the analysis, etc.).
8) Results and Synthesis. The results of field and/or laboratory investigations should be presented (along with supportive data) and a synthesis of the work given. This section should include site descriptions of all sites surveyed or excavated. The descriptions should include, if applicable, a complete discussion of the site's historical, paleontological or archaeological context. All research questions posed in the scope-of-work should be addressed with the collected data and the contribution of this work to scientific advancement discussed. For archaeological resources, the synthesis should evaluate the sites, associated artifact assemblages, cultural/historical context of all of the former in relationship to the overall scope of the project and in relationship to pertinent cultural, historical, or archaeological questions.
9) Supporting Data. Supportive data for the report should include lists and descriptions of material remains, illustrations of artifacts, fossils, features and pertinent human skeletal parts, photographs of the sites and the project area figures of excavation details (profiles, plan maps, etc.).
10) Recommendations. Recommendations regarding the preservation or mitigation of the sites must be given. A discussion of the further research potential of archaeological or paleontological materials recovered inexcavations must be given.
11) Supplementary Statements. The location where the materials and records have been deposited and are being cared for must be specified in the report. The nature of the records and curation facility must also be noted.
12) Bibliography. References to the files, published and unpublished literature, and oral reports which are applicable to the project must be included in the bibliography.
13) Appendices. A complete copy of the project permit application shall be included as an appendix as well as any other appropriate information necessary to present a full and complete understanding of the archaeological or paleontological resources investigated or additional information as the Agency may require in the permit.

Section 4190.110 Hearings and Appeals

Hearings and appeals shall be conducted in accordance with standard Agency procedures.

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Section 4190.111 Custody and Curation

a) Title to Archaeological and Paleontological Resources. Archaeological and paleontological resources excavated or removed from public lands remain the property of the State of Illinois. All artifacts, implements and material found or discovered by illegal disturbances, field investigations, explorations, or excavations shall be delivered to representatives of the Museum within 30 days after the permit termination date unless arranged otherwise with the Museum.

b) Archaeological and Paleontological Reports and Field Records. All original field records, notes, photographs and other information collected shall be housed in the Museum.

c) Distribution of Artifacts and Materials by the Museum. All collections of artifacts, archaeological materials, paleontological materials, field records, maps, notes, photographs and other information and objects collected may be made available for study under the provisions of Museum policy.

Section 4190.112 Museum Policy on the Scientific Curation, Conservation, and Loan of Archaeological and Paleontological Resources

This policy establishes the rules for the scientific curation, conservation, and loan of archaeological and paleontological resources transferred to the Museum under the provisions of this Part.

a) Statutory Mandate. The Museum shall collect and preserve objects of scientific and artistic value representing past and present fauna and flora, the life and work of man, geological history, natural resources, manufacturing and fine arts, and to interpret for and educate the public concerning these.

b) Acquisition. The Museum will accept transfer of archaeological and paleontological resources collected by permittees and other sources from public lands as defined in Section 4190.102 of this Part. A report describing the permit terms and conditions and context of the materials shall be submitted to the Museum at the time of the transfer.

c) Conservation. All material collected under this Part will be maintained in appropriate conditions as defined in CFR Part 79 et seq., Curation of Federally-Owned and Administered Archeological Collections.

d) Loans. All loans of archaeological or paleontological materials collected under this Part will be in keeping with standard Museum policies for the loan of such materials to organizations who meet the standards established by the Museum.

SUBPART B: PROHIBITED ACTS; PENALTIES

Section 4190.201 Prohibited Acts; Notification of Agency

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a) Discovery of Archaeological or Paleontological Resources. Any person who discovers archaeological or paleontological resources or is aware of the illegal disturbance of such protected resources shall immediately notify the Director.

b) No Disturbance Permitted. It is unlawful for any person, either by himself or through an agent, to knowingly disturb archaeological or paleontological resources protected by the Act except upon written application made to the Director for a permit therefor and upon the issuance and according to the terms of a permit granted therefor by the Director or as exempted by Section 4190.105.

c) No Sale or Other Transfer of Archaeological or Paleontological Resources. It is unlawful for any person, either by himself or through an agent, to sell, purchase, exchange, transport, possess, or receive any archaeological or paleontological resources protected by this Act with the knowledge that they have been collected or excavated in violation of this Act.

d) Notification of Agency. Persons aware of any violations of this Act should contact the Agency.

Section 4190.202 Criminal Penalties

a) Class A Misdemeanor-Violations. Any violation of Section 3 of the Act not involving the disturbance of human skeletal remains is a Class A misdemeanor. A violator is subject to imprisonment for not more than one year and a fine not in excess of $5,000. Any subsequent violation is a Class 4 felony. Each disturbance that takes place at an archaeological or paleontological site constitutes a separate offense.

b) Class 4 Felony-Violations. Any violation of Section 3 of the Act which involves the disturbance of human skeletal remains is a Class 4 felony and the violator shall be subject to imprisonment and a fine. Each disturbance of an unregistered grave, a grave marker or grave artifacts constitutes a separate offense.

Section 4190.203 Civil Penalties

a) Authority to Assess Civil Penalty. The Agency may assess a civil penalty against any person who has violated any prohibition contained in the Act, any regulation promulgated by the Agency pursuant to the Act or any term or condition included in a permit.

b) Notice of Violation. The Agency shall serve a notice of violation upon any person believed to be subject to a civil penalty, either in person or by registered or certified mail (return receipt requested). The Agency shall include in the notice:

1) A concise statement of the facts believed to show a violation;

2) A specific reference to the provisions of the Act or permit allegedly violated;

3) The amount of penalty proposed to be assessed, including any initial proposal to mitigate or remit where appropriate, or a

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statement that notice of a proposed penalty amount will be served after the damages associated with the alleged violation have been ascertained;

4) Notification of the right to file a petition for relief pursuant to subsection (d) of this Section, or to await the Agency's notice of assessment, and to request a hearing in accordance with subsection (g) of this Section. The notice shall also inform the person of the right to seek judicial review of any final administrative decision assessing a civil penalty.

c) Alternatives in Response to Notice of Violations. The person served with a notice of violation shall have 30 calendar days from the date of its service (or the date of service of a proposed penalty amount, if later) in which to respond. During this time the person may:

1) Seek informal discussions with the Agency;

2) File a petition for relief in accordance with subsection (d) of this Section;

3) Take no action and await the Agency's notice of assessment;

4) Accept in writing, or by payment of the proposed penalty, any mitigation or remission offered in the notice. Acceptance of the proposed penalty or mitigation or remission shall be deemed a waiver of the notice of assessment and of the right to request a hearing under subsection (g) of this Section.

d) Petition for Relief. The person served with a notice of violation may request that no penalty be assessed, or that the amount be reduced, by filing a petition for relief with the Agency within 30 calendar days after the date of service of the notice of violation (or of a proposed penalty amount, if later). The petition shall be in writing and signed by the person served with the notice of violation. If the person is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition shall set forth in full the legal or factual basis for the requested relief.

e) Assessment of Penalty.

1) The Agency shall assess a civil penalty upon expiration of the period for filing a petition for relief, or upon completion of informal discussions, whichever is later.

2) The Agency shall take into consideration all available information, including information provided pursuant to subsections (c) and (d) of this Section or furnished upon further request by the Agency.

3) If the facts warrant a conclusion that no violation has occurred, the Agency shall so notify the person served with a notice of violation, and no penalty shall be assessed.

4) Where the facts warrant a conclusion that a violation has occurred, the Agency shall determine a penalty amount in accordance with Section 4190.205 of this Part.

f) Notice of Assessment. The Agency shall notify the person served with a notice of violation of the penalty amount assessed by serving a written notice of assessment, either in person or by registered or certified mail (return receipt requested). The Agency shall include in the notice of assessment:

1) The facts and conclusions from which it was determined that a violation did occur;

2) The basis in Section 4190.205 for determining the penalty amount assessed and/or any offer to mitigate or remit the penalty; and

3) Notification of the right to request a hearing, including the procedures to be followed, and to seek judicial review of any final administrative decision assessing a civil penalty.

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g) Hearings.

1) Except where the right to request a hearing is deemed to have been waived as provided in Section 4190.203(c)(4), the person served with a notice of assessment may file a written request for a hearing with the adjudicatory body specified in the notice. The person shall enclose with the request for hearing a copy of the notice of assessment, and shall deliver the request as specified in the notice of assessment, personally or by registered or certified mail (return receipt requested).

2) A person served with notice must deliver a written request for a hearing within 30 days after the date of service of the notice of assessment, or shall be deemed to have waived the right to a hearing.

h) Final Administrative Decision.

1) When the person served with a notice of violation has accepted the penalty pursuant to subsection (c)(4) of this Section, the notice of violation shall constitute the final administrative decision;

2) When the person served with a notice of assessment has not filed a timely request for a hearing pursuant to subsection (g)(1) of this Section, the notice of assessment shall constitute the final administrative decision;

3) When the person served with a notice of assessment has filed a timely request for a hearing pursuant to subsection (g)(1) of this Section, the decision resulting from the hearing or any applicable administrative appeal therefrom shall constitute the final administrative decision.

i) Payment of Penalty.

1) The person assessed a civil penalty shall have 30 calendar days from the date of issuance of the final administrative decision in which to make full payment of the penalty assessed, unless a timely request for appeal has been filed.

2) Upon failure to pay the penalty, the Agency Director may request the Attorney General to institute a civil action to collect the penalty in a court for any district in which the person assessed a civil penalty is found, resides, or transacts business. Where the Agency is not represented by the Attorney General, a civil action may be initiated by the State's Attorney of the county in which the violation occurred.

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j) Other Remedies Not Waived. Assessment of a penalty under this Section shall not be deemed a waiver of the right to pursue other available legal or administrative remedies.

k) Injunctive Remedy. The Agency may seek injunction or other relief as the Agency deems appropriate for any violation of the Act or this Part.

Section 4190.204 Civil Damages

a) Generally. Persons convicted of a violation of Section 3 of the Act shall also be liable for civil damages to be assessed by the Agency. Civil damages may include:
   1) forfeiture of any and all equipment used in disturbing the protected archaeological or paleontological resources;
   2) any and all costs incurred in cleaning, restoring, analyzing, accessioning and curating the recovered materials;
   3) any and all costs associated with restoring the land to its original contour or the site to its original condition;
   4) the archaeological or paleontological value, the cost of restoration and repair, and any and all costs associated with recovery of data, and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the site;
   5) any and all costs associated with the reinterment of human skeletal remains;
   6) any and all costs associated with the determination and collection of the civil damages.

b) Deposit of Penalty Amounts to Designated Funds. When civil damages are recovered through the Attorney General, the proceeds shall be deposited into the Historic Sites Fund. When civil damages are recovered through the State's Attorney, the proceeds shall be deposited into the county funds designated by the county board.

c) Archaeological or Paleontological Value. For purposes of this Part, the archaeological or paleontological value of any material remains of past human life or activities, human remains, grave artifacts or grave markers, or the material remains of past life or traces involved in a violation of the prohibitions in the Act, this Part or conditions of a permit shall be the value of the information associated with the archaeological or paleontological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

d) Cost of Restoration and Repair. For purposes of this Part, the cost of restoration and repair of archaeological or paleontological resources, human remains, grave artifacts or grave markers damaged as

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a result of a violation of prohibitions or conditions pursuant to this Part, shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:
   1) Reconstruction of the archaeological or paleontological materials, human remains, grave artifacts or grave markers;
   2) Stabilization and conservation of the archaeological or paleontological materials, human remains, grave artifacts or grave markers;
   3) Ground contour reconstruction and surface stabilization;
   4) Research necessary to carry out reconstruction or stabilization;
   5) Physical barriers or other protective devices, necessitated by the disturbance of archaeological or paleontological resources, human remains, grave artifacts or grave markers to protect them from further disturbance;
   6) Examination and analysis of the archaeological or paleontological resources, human remains, grave artifacts or grave markers, including recording remaining archaeological or paleontological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;
   7) Reinterment of human remains in accordance with religious or tribal custom and State or local tribal law, where appropriate as determined by the Agency; and
   8) Preparation of reports relating to any of the above activities.

Section 4190.205 Penalty Amounts

a) Maximum Amounts. The maximum penalty for any misdemeanor violation of Section 3 of the Act is $5,000 per disturbance. The maximum penalty for any felony violation of Section 3 is $10,000 per disturbance.

b) Determination of Penalty Amount, Mitigation, and Remission. The Agency may assess a penalty amount less than the maximum amount of penalty and may offer to mitigate or remit the penalty.
   1) Determination of the penalty amount and/or a proposal to mitigate or remit the penalty may be based upon any of the following factors:
      A) Agreement by the person being assessed a civil penalty to return to the State all archaeological or paleontological resources removed;
      B) Agreement by the person being assessed a civil penalty to assist the Director in activity to preserve, restore, or otherwise contribute to the protection and study of archaeological or paleontological resources in Illinois;
      C) Agreement by the person being assessed a civil penalty to provide information which will assist in the detection, prevention, or prosecution of violations of the Act;
      D) Demonstration of hardship or inability to pay, provided that

this factor shall only be considered when the person being assessed a civil penalty has not been found to have previously violated the Act or regulations promulgated thereunder;

E) Determination that the person being assessed a civil penalty did not willfully commit the violation;

F) Determination that the proposed penalty would constitute excessive punishment under the circumstances;

G) Determination of other mitigating circumstances appropriate to consideration in reaching a fair and expeditious assessment.

2) When the penalty is for a violation which may have had an effect on a known tribal, ethnic or religious site on public lands, the Director should consult with and consider the interest of the affected groups prior to proposing to mitigate or remit the penalty.

Section 4190.206 Rewards

Section 9 of the Act provides for rewards of up to $2,000 to be made to persons who furnish information which leads to arrest and conviction for a criminal violation. The Director may certify to the State Comptroller that a person is eligible to receive payment. Officers and employees of Federal, State, or local government who furnish information or render service in the performance of their official duties, and persons who have provided information under Section 4190.205(b)(1) shall not be certified eligible to receive payment of rewards.

SUBPART C: ILLINOIS INVENTORY OF ARCHAEOLOGICAL AND PALEONTOLOGICAL SITES

Section 4190.301 Purpose of Inventory

In order to ensure that the scientific knowledge about both prehistoric, historic, and submerged archaeological sites and paleontological sites with their associated historic, cultural, archaeological, and paleontological resources are not willfully or unnecessarily destroyed or lost, and to preserve information with respect to their location and condition, the Museum and the Agency shall maintain an Illinois Inventory of Archaeological and Paleontological Sites as required in Section 10 of the Act. Such site information shall also be maintained as part of the Illinois Inventory of Burial Sites when the site contains human remains. The Inventory shall indicate the accurate location of each known archaeological or paleontological site..

Section 4190.302 Inventorying of Archaeological and Paleontological Sites

a) Application for Inventorying. To initiate an inventory request an applicant must complete the appropriate form provided by the Museum.

The form shall request that the following information, to the extent known, be provided:

1) The applicant's name, address and telephone number.
2) The site owner's name, address and telephone number.
3) Documentation of the site.
4) Photographic prints of the site to document the condition of the site.
5) A town, range and section description and Universal Transverse Meridian coordinates of the site's location, including sufficient buffer land necessary to protect the site until its specific legal boundaries are defined.
6) A sketch showing the known area of the site and any salient observable features.
7) A copy of the pertinent United States geological survey 7.5 minute topographic quadrangle map noting the location of the site.
8) Any information on previous recording of the site by the Illinois Archaeological Survey or other archaeological organizations.

b) Documentation of a Site. Documentation of a site may include, but is not limited to, the following:

1) Physical evidence, as demonstrated by archaeological, paleontological or written historical reports showing the presence of archaeological or paleontological resources, or human skeletal remains, graves or grave markers;
2) Adequate historical documentation;
3) Oral depositions or affidavits; or
4) Any additional information requested by the Agency.

c) Entry of Site Into the Inventory. If the application is complete and accurate to the best of the cataloger's knowledge, the Museum shall enter the site into the Inventory and assign it a site number. The Museum shall notify the applicant and the owner of record when a particular site on public lands has been added to the Inventory.

Section 4190.303 Release of Site Information

Information contained in the Illinois Inventory of Archaeological and Paleontological Sites may be released in accordance with the following:

a) Certified professional archaeologists or paleontologists may have access to site and location information for their respective fields as needed for their specific project by written request to the Agency archaeologist.

b) Governmental bodies may have access to information and location of sites located within lands that they own or manage for the purposes of protecting, preserving and managing those archaeological and paleontological resources or as needed for specific planning or management needs by written request to the Agency archaeologist.

c) Release of information (not including site location) to the public on archaeological or paleontological resource sites listed in the

Illinois Inventory of Archaeological and Paleontological Sites shall generally be available but the Director shall not release such information when it is believed that such a release may endanger the resource.

d) Site location information shall generally not be released but may be released when the Director determines that no harm is likely to occur to the protected resources and when the release of such information will serve some positive purpose.

e) Release of information under subsection (c) of this Section shall be subject to an applicable fee.

SUBPART D: CERTIFICATION OF PROFESSIONAL ARCHAEOLOGISTS AND PALEONTOLOGISTS

Section 4190.401 Purpose

This Subpart establishes minimum standards of education and experience for archaeologists and paleontologists to qualify as a professionals for the purpose of conducting activities under the Act, the Human Skeletal Remains Protection Act [20 ILCS 3440], the State Agency Historic Resources Preservation Act [20 ILCS 3420] or any rules and regulations promulgated thereunder. It is the purpose of these regulations to ensure that individuals who have the proper education, training, and experience are engaged in the investigation of the State's limited archaeological and paleontological resources.

Section 4190.402 Certification Requirements

All supervisory personnel carrying out paleontological activities or archaeological field investigations pursuant to this Part, the Human Skeletal Remains Protection Act, or the State Agency Historic Resources Preservation Act must be certified by the Illinois Historic Preservation Agency.

a) All field personnel who perform any supervisory archaeological field activities covered under this Part must be certified, at a minimum, as archaeological field technicians.

b) Persons responsible for and in charge of historic or prehistoric archaeological field investigations must be certified at the appropriate level as follows:

1) at Level I (Survey Supervision) to supervise Phase I initial reconnaissance survey and identification-level archaeological field investigations involving pedestrian survey and minimal subsurface testing such as shovel-testing and coring.

2) at Level II (Testing Supervision) to supervise Phase II limited archaeological field investigations involving subsurface testing to evaluate the context and significance of archaeological resources.

3) at Level III (Mitigation Excavation Supervision) to supervise large-scale field investigations involving mitigation excavations designed to recover maximum archaeological information from total or near total site excavations.

c) Persons responsible for and in charge of underwater archaeological field activities must meet the requirements to be certified as a professional underwater archaeologist.

d) Persons responsible for and in charge of historical archaeological field activities must meet the requirements to be certified as a professional historical field archaeologist.

e) Persons responsible for and in charge of prehistoric archeological field activities must meet the requirements to be certified as a professional prehistoric field archaeologist.

f) Persons responsible for and in charge of State agencies' archaeological compliance and research programs must meet the requirements to be certified as a professional archaeologist.

g) Persons responsible for and in charge of paleontological investigations conducted under this Part must be certified as a professional paleontologist.

Section 4190.403 Application Procedures

An individual wishing to apply for certification as a professional archaeologist or paleontologist under this Part shall submit a letter of request indicating the level of certification requested along with appropriate documentation to the Director, Illinois Historic Preservation Agency, Archaeology Section, Preservation Services Division. Documentation shall be of sufficient detail to demonstrate the applicant fulfills the requirements for the requested certification level and shall include a copy of an official university transcript indicating the applicant's fulfillment of the requirements of the appropriate degree. All applicants for archaeological certification shall submit with their application documentation a signed statement indicating that they shall:

a) Abide by the Illinois Professional Archaeologists "Code of Ethics" and "Standards of Research Performance" as presented in Subpart E of this Part.

b) Actively participate in the recording of archaeological resources by submitting new and updated site information to the Illinois Inventory of Archaeological and Paleontological Sites and the Illinois Inventory of Burial Sites in a timely manner that at a minimum shall be on a biannual basis.

c) Assist in the protection of archaeological resources by providing information to the Agency on any project or activity that may endanger such resources.

d) Not enter into any contractual or other agreement that prevents them from providing information on archaeological or paleontological resources to the Agency.

e) Provide as part of their application documentation a full disclosure of all outstanding archaeological reports, associated site forms, and uncurated collections and documentation within the State of Illinois for which the individual has a contractual or legal responsibility to complete and submit. This information shall include the contracting

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agency/party, project history, report and curation status, and projected plans for completion, including the concurrence of the party for whom the project was done.

Section 4190.404 Requirements for Archaeological Field Technician Certification

A State certified professional archaeological field technician must, at a minimum:

a) have been awarded a undergraduate degree, from an accredited organization, in archaeology, anthropology, or another germane discipline and;
   1) have 16 weeks of supervised field training in time blocks of at least four weeks duration. At least half of this experience must be in field investigation excavation (Phase II or Phase III).
   2) have eight weeks of supervised laboratory analysis or curation experience, which may be accumulated on a part-time basis.

b) or have an unrelated undergraduate degree from an accredited organization and one year of professional archaeological field experience under the supervision of someone meeting the qualifications of Section 4190.405. At least 4 months of this experience must be in field investigation excavation (Phase II or Phase III).

Section 4190.405 Requirements for Supervisory Professional Prehistoric or Historic Field Archaeologist Certification

In addition to meeting the requirements of Section 4190.404, a State certified supervisory professional prehistoric or historic field archaeologist must:

a) have been awarded:
   1) a graduate degree, from an accredited organization, in archaeology, anthropology, or another germane discipline; or
   2) fulfilled the requirements of Section 4190.404 as well as having successfully completed an additional 36 months of professional field investigation supervisory experience. The individual's 36 months of experience must be within historic archaeology to be certified as a Historic Field Archaeologist or within Mid-continental Region prehistoric archaeology to be certified as a Prehistoric Field Archaeologist.

b) have designed and executed an archaeological study either in prehistoric or historic archaeology as evidenced by an M.A. or M.S. thesis, Ph.D. dissertation, or a report equivalent in scope and quality. It is recognized that in some cases an individual may have prepared several small reports that, cumulatively, are comparable to an M.A. or M.S. thesis. If the applicant's name does not appear on a document she/he authored, a letter verifying the actual authorship must be solicited and submitted from the person, firm, or agency which issued the report. In any case, the reports must indicate substantive analysis based on an explicitly theoretical orientation. A long but

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purely descriptive report is not considered equivalent.

c) have access to facilities and services or be associated with an organization that provide's, as appropriate to the scope of the project, the necessary:
   1) office space and furniture;
   2) laboratory space, furniture, and equipment for analysis of specimens and data;
   3) special facilities such as darkroom, drafting facilities, conservation laboratory, etc.;
   4) permanent allocation of space, facilities, and equipment for proper maintenance of collections and records located within the State of Illinois;
   5) field equipment such as vehicles, surveying instruments, etc.;
   6) research library;
   7) administrative and fiscal control services;
   8) security system;
   9) technical specialists such as photographers, curators, conservators, etc.; and
   10) report production services.

   Individuals or organizations lacking certain facilities or services may satisfy the requirements through cooperative agreements with other organizations. The archaeologist must furnish a letter detailing access to facilities meeting the above conditions, or if associated with an organization, a letter from an authorized organizational official detailing the applicant's association and indicating the organization's commitment to providing the above conditions.

d) additionally fulfill the requirements of at least one of the following levels:
   1) Level I - Phase I Survey Supervision.
      A) Mid-continental Region historic or prehistoric archaeological survey experience including 24 weeks of field experience plus 20 weeks at a supervisory-level;
      B) the completion of archaeological reports, meeting the standards of the Illinois State Historic Preservation Office, of such supervised Phase II surveys; and
      C) demonstrated experience in Phase I project administration, implementation of cultural resource law/regulations, fiscal management, and successful project and report completion.
   2) Level II - Phase II Testing Excavation Supervision.
      A) Mid-continental Region historic or prehistoric archaeological excavation experience including 24 weeks of field experience plus 24 weeks at a supervisory level;
      B) the completion of archaeological reports, meeting the standards of the Illinois State Historic Preservation Office, of such supervised Phase II testing excavations; and
      C) demonstrated experience in Phase II project administration, implementation of cultural resource law/regulations, fiscal management, and successful project and report completion.

3) Level III - Phase III Mitigation Excavation Supervision. Meet Level II requirements, plus:
   A) an additional 24 weeks of supervisory-level excavation experience;
   B) the past successful completion of comparable-level archaeological Phase III excavation reports, meeting the standards of the Illinois State Historic Preservation Office; and
   C) demonstrated experience in Phase III project administration, implementation of cultural resource law and regulations, fiscal management, and successful project and report completion.

Section 4190.406 Requirements for Certified Professional Underwater Archaeologist

At a minimum, a State certified professional underwater archaeologist must:

a) Fulfill the requirements for a certified archaeological field technician;
b) Have one year of relevant Mid-continental Region freshwater lake and river underwater field and related laboratory experience including at least two weeks of underwater survey techniques, 24 weeks of supervised underwater fieldwork, 20 weeks of supervisory underwater archaeological fieldwork, 8 weeks supervised training in the application of stabilization and conservation methods as they pertain to waterlogged materials, and the design and execution of an underwater archaeological study.
c) Have one year of experience in the operation of remote sensing devices in a marine environment for the purposes of discovery and evaluation of archaeological resources. Six months of this time must be supervised by a specialist in the use of underwater remote sensing devices.
d) Provide documentation demonstrating diving competency (including current certification by a recognized national diving organization).
e) Demonstrate knowledge of both archaeological and archival data pertaining to historic watercraft and shipping on Midwestern lakes and rivers.

Section 4190.407 Requirements for a Certified Professional Paleontologist

At a minimum, a State certified professional paleontologist must:

a) have been awarded a graduate degree, from an accredited organization, in paleontology, geology, biology or another germane discipline with a specialization in paleontology.
b) have designed and executed a paleontological study as evidenced by an M.A. or M.S. thesis, Ph.D. dissertation, or a report equivalent in scope and quality. It is recognized that in some cases an individual may have prepared several small reports that, cumulatively, are

comparable to an M.A. or M.S. thesis. If the applicant's name does not appear on a document that a person authored, a letter verifying the actual authorship must be solicited and submitted from the person, firm, or agency that issued the report. In any case the reports must indicate that the person has the ability to conduct the field work with appropriate methods and complete the report as outlined in this Section.
c) have access to facilities and services or be associated with an organization that provides, as appropriate to the scope of the project, the necessary:
   1) office space and furniture;
   2) laboratory space, furniture, and equipment for analysis of specimens and data;
   3) special facilities such as darkroom, drafting facilities, conservation laboratory, etc.;
   4) permanent allocation of space, facilities, and equipment for proper maintenance of collections and records located within the State of Illinois;
   5) field equipment such as vehicles, surveying instruments, etc.;
   6) research library;
   7) administrative and fiscal control services;
   8) security system;
   9) technical specialists such as photographers, curators, conservators, etc.; and
   10) report production services.

Individuals or organizations lacking certain facilities or services may satisfy these requirements through cooperative agreements with other organizations. The paleontologist must furnish a letter detailing access to facilities meeting the requirements of this subsection (c), or if associated with an organization, a letter from an authorized organizational official detailing the applicant's association and indicating the organization's commitment to meeting the requirements of this subsection.

Section 4190.408 Certification Approval

Upon receipt of an application for certification as a professional archaeologist, the Agency archaeologist shall review the information provided and within 30 days after the application receipt make a written recommendation to the Director regarding the approval or denial of the application. Upon receipt of an application for certification as a professional paleontologist, the Agency archaeologist shall forward the application to the Museum for review. Within 30 days after the application receipt the Museum shall make a written recommendation to the Director regarding the approval or denial of the application. Applicants for certification as professional archaeologists or paleontologists shall be approved at the appropriate level if the Director finds the applicant has provided sufficient documentation and meets the qualifications for certification.

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Section 4190.409 Denial of Certification

Applicants for certification as professional archaeologists or paleontologists shall be denied if the Director, upon the written recommendation of the Agency archaeologist, finds that the applicant has provided insufficient documentation, has willfully misrepresented facts, or does not meet the minimum standards for certification.

Section 4190.410 Suspension or Revocation of Certification

Certification shall be suspended or revoked if the Director finds that a certified professional archaeologist or paleontologist:

a) has willfully misrepresented facts in the application documentation.
b) has not satisfactorily complied with conditions of permits issued under the Act or under the Human Skeletal Remains Protection Act.
c) has not satisfactorily complied with conditions of archaeological contracts reviewed and approved by the Agency pursuant to the State Agency Historic Resources Preservation Act or the National Historic Preservation Act.
e) has not satisfactorily participated in reporting archaeological sites to the Illinois Inventory of Archaeological and Paleontological Sites or the Illinois Inventory of Burial Sites.
f) has demonstrated a consistent pattern of incompetence in the performance of archaeological field investigations, archaeological analysis and/or the completion of required reports indicating the inability to perform the responsibilities of a certified professional archaeologist. A documented history of incompetence must be demonstrated by the Agency prior to taking action to suspend or revoke any level of certification.
g) has demonstrated a consistent pattern of not complying with the stipulations in Subpart E of this Part. A documented history of noncompliance must be demonstrated by the Agency prior to taking action to suspend or revoke any level of certification.
h) has willfully engaged in actions that are harmful to protected archaeological or paleontological resources.
i) has not maintained a fieldwork environment that is safe to crew, land-management staff, and the public.

To ensure that the highest professional standards are followed the Agency shall maintain a record on the professional activities of all certified archaeologists, human skeletal analysts, and paleontologists. This record shall include copies of current resumes, all correspondence related to an individual's professional competence, ethical activities, and other matters relevant to this Part.

Section 4190.501 Hearings and Appeals

Hearings and appeals shall be conducted in accordance with standard Agency procedures.

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SUBPART E: ILLINOIS PROFESSIONAL ARCHAEOLOGISTS' CODE OF ETHICS AND STANDARDS OF RESEARCH PERFORMANCE

Section 4190.601 Purpose

The archaeological resources of Illinois are an important and irreplaceable part of the State's heritage and identity. The State has a responsibility to ensure that only those individuals with appropriate regional training and expertise and the highest professional standards be engaged in the recovery, investigation, and analysis of such resources. Archaeology is a profession, and the privilege of professional practice in Illinois requires professional ethics and professional responsibility, as well as professional competence, on the part of each practitioner.

Section 4190.602 Code of Ethics

a) Individuals certified under this Part as Illinois Professional Archaeologists shall:
   1) Recognize that the archaeological resource base and the knowledge gained from it belongs to, and is held in trust for, all peoples;
   2) Recognize a commitment to represent archaeology and its research results to the public in a responsible manner;
   3) Actively support conservation of the archaeological resource base;
   4) Be sensitive to, and respect the legitimate concerns of, groups whose culture histories are the subject of archaeological investigations;
   5) Avoid and discourage exaggerated, misleading, or unwarranted statements about archaeological matters that might induce others to engage in unethical or illegal activities;
   6) Support and comply with the terms of the UNESCO Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property, as adopted by the General Conference, 14 November 1970, Paris;
   7) Give appropriate credit for work done by others;
   8) Stay informed and knowledgeable about developments in one's field of specialization;
   9) Accurately, and without undue delay, prepare and properly disseminate a description of research done and its results;
   10) Communicate and cooperate with colleagues having common professional interests;
   11) Know and comply with all federal, State, and local laws, ordinances, and regulations applicable to archaeological research and activities within the State of Illinois;
   12) Report knowledge of all violations of this Part to the proper authorities;
   13) Refuse to comply with any request or demand of an employer or client that conflicts with this Part.

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b) Individuals certified under this Act as Illinois Professional Archaeologists shall not:
   1) Engage in any illegal or unethical conduct involving archaeological matters or knowingly permit the use of their names in support of any illegal or unethical activities involving archaeological matters;
   2) Give a professional opinion, make a public report, or give legal testimony involving archaeological matters without being appropriately informed concerning the topic;
   3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation about archaeological matters;
   4) Undertake any research that affects the archaeological resource base for which they are not qualified;
   5) Falsely or maliciously attempt to injure the reputation of another archaeologist;
   6) Commit plagiarism in oral or written communication;
   7) Refuse a reasonable request from a qualified colleague for research data;
   8) Participate in any actions that are in violation of this Part.

Section 4190.603 Standards of Research Performance

A certified Illinois professional archaeologist has the responsibility to design and conduct projects that will add to the understanding of past cultures and/or that will develop better theories, methods, or techniques for interpreting the archaeological record, while causing minimal attrition of the archaeological resource base. In the conduct of that research the following minimal standards shall be followed:

a) The archaeologist has a responsibility to prepare adequately for any project in which he or she is involved. Archaeologists must:
   1) Assess the adequacy of their qualifications for the demands of the project and minimize inadequacies by acquiring additional expertise, by bringing in associates with needed qualifications, or by modifying the scope of the project;
   2) Inform themselves of relevant previous research, records, and documents;
   3) Develop a scientific plan of research that specifies the objectives of the project, takes into account previous relevant research, employs a suitable methodology, and provides for economical use of the resource base consistent with the objectives of the project;
   4) Ensure the availability of adequate and competent staff and support facilities to carry the project to completion and of adequate curatorial facilities for specimens and records;
   5) Comply with all legal requirements, including, without limitation, obtaining all necessary governmental permits and necessary permission from landowners and other persons as required by law.

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b) In conducting projects, the archaeologist must follow the scientific plan of research, except to the extent that unforeseen circumstances warrant its modification.

c) Procedures for field survey or excavation must meet the following minimum standards:
   1) Maintain a system for identifying and recording the provenience for all collected specimens.
   2) Uncollected entities such as environmental or cultural features, depositional strata, and the like, must be fully and accurately recorded by appropriate means, and their location recorded.
   3) The methods employed in data collection must be fully and accurately described. Significant stratigraphic and/or associational relationships among artifacts, other specimens, and cultural and environmental features must also be fully and accurately recorded.
   4) All records should be intelligible to other archaeologists. If terms lacking commonly held referents are used they should be clearly defined.
   5) Insofar as possible, the interests of other researchers should be considered.

d) During accessioning, analysis, and storage of specimens and records in the laboratory the archaeologist must take precautions to ensure that correlations between specimens and field records are maintained so the provenience, contextual relationships and the like are not confused or obscured.

e) Specimens and research records resulting from a project must be deposited at an institution with permanent curatorial facilities. All specimens and research records collected from projects conducted on public lands under this Part shall be deposited in the Illinois State Museum.

f) The archaeologist has responsibility for appropriate dissemination of the results of research to the appropriate constituencies with reasonable dispatch.
   1) Results reviewed as contributions to substantive knowledge of the past or to advancements in theory, method or technique shall be disseminated by appropriate means such as a full descriptive report or comparable publications to ensure that the basic data is available to interested parties.
   2) Archaeologists do not own the archaeological record or the knowledge garnered from it. The failure of an archaeologist to produce a full descriptive report of the results of a field project within 7 years from the end of fieldwork shall make such data fully accessible to other archaeologists for analysis and publication.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Consignment of Licenses, Stamps and Permits

2) Code Citation: 17 Ill. Adm. Code 2520

3)

Section Numbers:	Proposed Action:
2520.10	Amendments
2520.30	Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

5) A Complete Description of the Subjects and Issues Involved: These amendments set the qualifications for a vendor to receive a preferred status. A preferred status allows the vendor to have licenses, stamps and permits consigned up to 50% over the amount of the financial evidence. All vendors with a preferred status will be reviewed annually. Delinquent accounts will be referred to the security company and the balance over the financial evidence will be referred to other agencies for assistance in collection.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
(217) 782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Persons selling licenses or stamps.

B) Reporting, bookkeeping or other procedures required for compliance: Vendors must keep track of licenses and stamps sold and remit the proper fees for such sales. Unsold licenses and stamps must be returned at the end of the year.

C) Types of professional skills necessary for compliance: No professional skills are required.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department did not anticipate submitting amendments to this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2520
CONSIGNMENT OF LICENSES, STAMPS AND PERMITS

Section
2520.10 Consignment Requirements
2520.20 Issuing Licenses, Stamps and Permits
2520.30 Terms
2520.40 Credit to Vendor Accounts
2520.50 Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7653, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. _____, effective _____.

Section 2520.10 Consignment Requirements

a) The Department of Natural Resources (DNR) has the authority to designate agents to sell licenses, stamps and permits on behalf of the Department. DNR consigns hunting, fishing, trapping and Ginseng Harvester licenses, migratory waterfowl, salmon and wildlife conservation stamps, and deer archery combination permits, hereinafter referred to as licenses, stamps and permits, for sale by county, city, village, township and incorporated town clerks, upon receipt of their completed application and elected official license vendor contract, and fulfillment of requirements set forth in this Part. The Department also consigns the licenses, stamps and permits to other persons, hereinafter referred to as "direct agents", upon receipt of their completed application, license vendor contract, evidence of financial responsibility, and fulfillment of the requirements set forth in this Part. The term "direct agent" means all persons authorized by the Department to sell licenses, stamps and permits other than elected or appointed officials and department employees. License vendors, including employees of the Department selling licenses, stamps and permits, shall collect an issuing fee in addition to the license, stamp and permit fee as provided in 515 ILCS 5/20-120 and 520 ILCS 5/3.37 as follows: 75 cents for each Sportsmen's Combination license and non-resident hunting license, and 50 cents for all other licenses, stamps and permits authorized by the above statutes. All licenses, stamps and permits consigned and fees collected from the sale of licenses, stamps and permits (except the authorized issuing fee) remain the property of the State of Illinois. Funds received from the sale of licenses, stamps and permits (except the authorized issuing fee) shall not be directed to any purpose other than remittance to the Department.

b) County, city, village, township and incorporated town clerks may appoint sub-agents within the territorial area for which they are elected or appointed. Elected or appointed officials and Department employees selling licenses, stamps and permits are liable to the State for all licenses, stamps and permits consigned to their account, including any licenses, stamps and permits furnished by a clerk to any sub-agent. Any clerk appointing sub-agents must notify the Department, within 10 days following the appointment, the names and mailing addresses of such sub-agents. No part of the issuing fees collected may be retained as personal compensation by the clerk. Issuing fees may be divided between the clerk and appointed sub-agents other than employees of the Clerk's office, but in no case may any clerk and/or sub-agent charge an issuing fee or fees totaling more than the amounts set out in Section 2520.10 of this ~~the~~ Part. DNR assumes no liability for any license, stamp or permit furnished by any elected or appointed clerk to any sub-agent.

c) All direct agents, including concessionaires holding contracts with the Department, shall be required to furnish DNR with evidence of financial responsibility. Such evidence shall be in the form of a surety bond, irrevocable letter of credit or certificate of deposit, in an amount equal to the value of licenses, stamps and permits consigned~~,~~ with the exception of direct agents with a preferred status. Direct agents must meet the following qualifications to receive a preferred status:

1) The direct agent must sell licenses, stamps and permits for one complete license year.

2) If the direct agent has sold licenses, stamps and permits with a value of $16,000.00 or more during the previous license year, the Department must have received 20 or more remittances or no sales reports. If the direct agent has sold licenses, stamps and permits with a value of $15,999.99 or less during the previous license year, the Department must have received 10 or more remittances or no sales reports during the previous license year.

If these qualifications are met the direct agent's consignments may total 50% over the amount of their financial evidence. All direct

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agents with a preferred status will be reviewed annually. If qualifications have been met, the preferred status will continue for the following license year. If the qualifications have not been met, the preferred status is removed and the direct agent will be consigned licenses, stamps and permits equal to the amount of financial evidence. Surety bonds and letters of credit shall be on a form furnished by and approved by DNR, with surety or sureties satisfactory to DNR, conditioned upon such agents paying to the State of Illinois all monies becoming due by reason of the sale of licenses, stamps and permits. No direct agent may appoint sub agents.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2520.30 Terms

a) When funds received in payment for licenses, stamps and permits are deposited in an interest bearing account and where fees collected by a vendor are determined to be late to the department according to the remittance schedule in Section 2520.30(c), interest that has accrued through an interest bearing license account on the overdue funds will be remitted to the Department by separate check along with fees collected from the sale of such licenses, stamps and permits.

b) All license vendors shall be required to remit to the Department, according to the schedule in subsection (c) below, all funds received from the sale of licenses, stamps and permits during the preceeding remittance period except the authorized issuing fee. Vendors having licenses, stamps and permits on hand for sale, but who have sold none during the remittance period, shall report this fact to the Department according to the remittance schedule by the use of a "no sales" report, furnished by the Department.

c) The remittance schedules are as follows:

1) Schedule I: For vendors having sold licenses, stamps and permits with a value of $16,000 or more during a prior license year, remittance periods shall be from the 1st through the 15th of each month and the 16th through the last day of each month. Remittance shall be made to the Department no later than the 5th and 20th of each month, for all licenses, stamps and permits sold during the previous remittance period.

2) Schedule II: For vendors having sold licenses, stamps and permits of a value of $15,999.99 or less during the previous license year, the remittance period shall be each month. Remittance shall be made to the Department no later than the 10th of each month for all licenses, stamps and permits sold during the previous month.

d) Accounts more than one remittance period past due shall have additional license consignments withheld until the account is current. Accounts two remittance periods or more past due will cause the

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Department to cancel or withdraw the issuance of licenses through such clerks or agents. In the case of secured agents, payment will be demanded from the security company. In the case of secured agents with a preferred status, payment up to the amount of financial evidence will be demanded from the security company and the balance over the financial evidence will be referred to other agencies for assistance. No installment payment agreements will be accepted by DNR except pursuant to judgment decrees.

e) Within 30 days after the expiration of the time in which any class of license, stamp or permit is usable, the final payment for licenses, stamps and permits sold shall be made in full to the Department, and all unsold or void licenses, stamps and permits shall be returned to the Department. Accounts not closed out within the 30 days specified shall be suspended or terminated, and referred to the security company for action or referral to other agencies for assistance.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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1) Heading of the Part: Water Quality Standards

2) Code Citation: 35 Ill. Adm. Code 302

3) Section Numbers:	Proposed Action:
302.202	Amend
302.212	Amend
302.213	Add

4) Statutory Authority: 415 ILCS 5/13, 27 and 28.2

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments are part of the Illinois Environmental Protection Agency's (Agency) Triennial Review. The proposed amendments revise the Board's General Use Water Quality Standards for ammonia nitrogen. The Board proposes, in agreement with the Agency's recommendations, to reconstitute much of Section 302.212 for the purposes of adding clarity to the Section and of incorporating updated information on the effects of pH and temperature on ammonia toxicity. The newly proposed Section 302.213 defines and gives the Agency authority to identify Effluent Modified Waters (EMW). An EMW consists of waters downstream from an effluent outfall that have the potential to exceed the chronic standard (CS) for ammonia.

Pursuant to 415 ILCS 5/28.2(e), the Agency has certified that the proposed revisions to the Water Quality Standards are federally required. These proposed amendments also provide a directive to the Agency controlling the application of the amended rules to dischargers required to have a National Pollutant Discharge Elimination System (NPDES) permit. The Agency is required to set effluent discharge limits at existing amounts (with an allowance for growth), and when the Agency determines according to specified factors that the receiving water body has been modified by effluents, the Agency is required to establish effluent permit limits no lower than specified amounts.

A more detailed description of the amendments can be found in the Board's opinion in Docket R94-1(B) of July 18, 1996 which is available from the Board.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

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10) Statement of Statewide Policy Objectives: These proposed amendments are consistent with the policy objectives set out in Title III of the Environmental Protection Act [415 ILCS 5/Title III]. The proposed revisions to water quality standards impose a federal mandate on units of local government that operate sewage treatment works.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R94-1(B) and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, IL 60601
(312) 814-6931

Questions concerning this rulemaking should be addressed to Diane O'Neill at (312) 814-6062.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require reporting, bookkeeping and other procedures including the taking of effluent and stream samples, water analysis, and reporting.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of biologists, chemists and registered professional engineers.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

SUBPART D: SECONDARY CONTACT AND INDIGENOUS AQUATIC LIFE STANDARDS

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SUBPART E: LAKE MICHIGAN WATER QUALITY STANDARDS

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

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AUTHORITY: Implementing Section 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13 and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended at R94-1(B) at 20 Ill. Reg. _____, effective _____.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act, as of July 1, 1994.

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.202 Purpose

The general use standards will protect the State's water for aquatic life, wildlife (except as provided in Section 302.213), agricultural use, secondary contact use and most industrial uses and ensure the aesthetic quality of the State's aquatic environment. Primary contact uses are protected for all general use waters whose physical configuration permits such use.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 302.212 Total Ammonia Nitrogen and Un-ionized Ammonia

a) Total ammonia ~~Ammonia~~ nitrogen (as N: STORET ~~Storet~~ Number 00610 ~~31616~~) shall in no case exceed 15 mg/~~L~~l.

~~b) If ammonia nitrogen is less than 15 mg/l and greater than or equal to~~

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~~1.5 mg/l, then un-ionized ammonia (as N) shall not exceed 0.04 mg/l.~~

b) Un-ionized ammonia nitrogen (as N: STORET Number 00612) shall not exceed the acute and chronic standards given below subject to the provisions of Section 302.208(a) and (b), and Section 302.213 of this Part.

1) From April through October, the Acute Standard (AS) shall be 0.33 mg/L and the Chronic Standard (CS) shall be 0.057 mg/L.

2) From November through March, the AS shall be 0.14 mg/L and the CS shall be 0.025 mg/L.

~~c) Ammonia nitrogen concentrations of less than 1.5 mg/l are lawful regardless of un-ionized ammonia concentration.~~

c)~~d)~~ For purposes of this Section, ~~section~~ the concentration of un-ionized ammonia nitrogen as N and total ammonia nitrogen as N shall be computed according to the following equations ~~equation~~:

$$U = \frac{N}{[0.94412(1 + 10^{(\text{superscript } x)}) + 0.0559]}$$

and

$$N = U\,[0.94412(1 + 10^{(\text{superscript } x)}) + 0.0559]$$

where: $X = 0.09018 + \frac{2729.92}{(T + 273.16)} - pH$

~~$U = \frac{1.0013 \cdot N}{(1 + 10^{(\text{superscript } x)})}$ where:~~

~~$N = 0.09810 + \frac{2729.92}{(T + 273)} - pH$~~

U = Concentration of un-ionized ammonia as N in mg/L

N = Concentration of ammonia nitrogen as N in mg/~~L~~l

T = Temperature in degrees Celsius

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d)e) The following tables indicate ~~table indicates~~ the maximum total ammonia nitrogen concentrations (mg/L as N allowable pursuant to subsections (a) and (b) of this Section) for certain combinations of pH and temperature:

~~AMMONIA NITROGEN~~
~~WATER QUALITY STANDARD (mg/l)~~

~~TEMP~~ ~~°C (°F)~~	pH 6.0	6.5	7.0	7.5	8.0	8.5	9.0
~~5 (41)~~	15	15	15	~~9.6~~	~~3.1~~	1.5	1.5
~~10 (50)~~	15	15	15	~~6.5~~	~~2.1~~	1.5	1.5
~~15 (59)~~	15	15	~~13.9~~	~~4.4~~	1.5	1.5	1.5
~~20 (68)~~	15	15	~~9.6~~	~~3.1~~	1.5	1.5	1.5
~~25 (77)~~	15	15	~~6.7~~	~~2.1~~	1.5	1.5	1.5
~~30 (86)~~	15	~~14.9~~	~~4.7~~	1.5	1.5	1.5	1.5
~~35 (95)~~	15	~~10.7~~	~~3.4~~	1.5	1.5	1.5	1.5

1) Summer (April through October) Acute un-ionized ammonia 0.33 mg/L

pH		6.5	7.0	7.5	7.75	8.0	8.25	8.5	9.0
°F	°C								
55	12.8	15.0	15.0	15.0	15.0	13.8	7.9	4.6	1.7
60	15.6	15.0	15.0	15.0	15.0	11.2	6.5	3.8	1.4
65	18.3	15.0	15.0	15.0	15.0	9.8	5.3	3.1	1.2
70	21.1	15.0	15.0	15.0	13.2	7.6	4.4	2.6	1.1
75	23.9	15.0	15.0	15.0	10.9	6.3	3.7	2.2	0.9
80	26.7	15.0	15.0	15.0	9.0	5.2	3.1	1.9	0.8
85	29.4	15.0	15.0	13.1	7.5	4.4	2.6	1.6	0.7
90	32.2	15.0	15.0	10.9	6.3	3.7	2.2	1.4	0.7

2) Summer (April through October) Chronic un-ionized ammonia 0.057 mg/L

pH		6.5	7.0	7.5	7.75	8.0	8.25	8.5	9.0
°F	°C								
55	12.8	15.0	15.0	7.4	4.2	2.4	1.4	0.8	0.3
60	15.6	15.0	15.0	7.0	3.4	1.9	1.1	0.7	0.2
65	18.3	15.0	15.0	4.9	2.8	1.6	0.9	0.5	0.2
70	21.1	15.0	12.6	4.0	2.3	1.3	0.8	0.5	0.2
75	23.9	15.0	10.3	3.3	1.9	1.1	0.6	0.4	0.2
80	26.7	15.0	8.6	2.7	1.6	0.9	0.5	0.3	0.1
85	29.4	15.0	7.8	2.3	1.3	0.8	0.4	0.3	0.1
90	32.2	15.0	5.8	1.9	1.1	0.6	0.4	0.2	0.1

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3) Winter (November through March) Acute un-ionized ammonia 0.14 mg/L

pH		6.5	7.0	7.5	7.75	8.0	8.25	8.5	9.0
°F	°C								
32	0.0	15.0	15.0	15.0	15.0	15.0	9.2	5.2	1.7
35	1.7	15.0	15.0	15.0	15.0	14.1	8.0	4.5	1.5
40	4.4	15.0	15.0	15.0	15.0	11.3	6.4	3.7	1.3
45	7.2	15.0	15.0	15.0	15.0	9.0	5.1	2.9	1.0
50	10.0	15.0	15.0	15.0	12.8	7.3	4.1	2.4	0.9
55	12.8	15.0	15.0	15.0	10.3	5.9	3.4	2.0	0.7
60	15.6	15.0	15.0	14.8	8.4	4.8	2.7	1.6	0.6

4) Winter (November through March) Chronic un-ionized ammonia 0.025 mg/L

pH		6.5	7.0	7.5	7.75	8.0	8.25	8.5	9.0
°F	°C								
32	0.0	15.0	15.0	9.1	5.1	2.9	1.6	0.9	0.3
35	1.7	15.0	15.0	7.9	4.4	2.5	1.4	0.8	0.3
40	4.4	15.0	15.0	6.3	3.6	2.0	1.1	0.7	0.2
45	7.2	15.0	15.0	5.0	2.8	1.6	0.9	0.5	0.2
50	10.0	15.0	12.7	4.0	2.3	1.3	0.7	0.4	0.2
55	12.8	15.0	10.2	3.3	1.8	1.0	0.6	0.3	0.1
60	15.6	15.0	8.3	2.6	1.5	0.9	0.5	0.3	0.1

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 302.213 Effluent Modified Waters (Ammonia)

a) Effluent modified waters are those waters or portions of waters that the Agency has determined, pursuant to 35 Ill. Adm. Code 309, Subpart A, to have the potential to exceed, and are therefore not subject to, the chronic ammonia standards of Section 302.212(b) downstream of an effluent outfall and outside of any allowable mixing zone. The Agency shall not identify a waterbody as an effluent modified water if it:
   1) has uses known to be adversely impacted by ammonia as designated under 35 Ill. Adm. Code 303.201 outside of any allowable mixing zone; or
   2) exceeds the acute standard of Section 302.212(b) of this Part.

b) All effluent discharges to an effluent modified water must meet the requirements of 35 Ill. Adm. Code 304.122(d) prior to dilution with the receiving water.

(Source: Added at 20 Ill. Reg. _____, effective

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NOTICE OF PROPOSED AMENDMENTS

_____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Claiming Races

2) Code Citation: 11 Ill. Adm. Code 510

3) Section Numbers: 510.195 — Proposed Action: New Section

4) Statutory Authority: 230 ILCS 5/9(b)

5) A complete description of the subjects and issues involved: This rulemaking establishes the procedure for counting days after a claimed horse is determined to be eligible for racing at a different location or when the claimed horse may be sold or transferred pursuant to Sections 510.200 and 510.210.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other proposed amendments pending in this Part? Section 510.190 published at 20 Ill. Reg. 7794 on June 14, 1996.

10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Gina DiCaro
Illinois Racing Board, Legal Department
100 West Randolph, Ste. 11-100
Chicago, IL 60601
(312) 814-5070

12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was

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not included on either of the 2 most recent agendas because: This rulemaking is a result of the proposed repeal of Section 510.190. The language contained in subsection (b) of that Section is necessary to determine eligibility dates.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510
CLAIMING RACES

Section
510.10 Definition
510.20 Claiming Eligibility
510.30 Form and Deposit of Claim
510.40 Errors which Invalidate Claim
510.50 Refund of Voided Claim
510.60 Prohibited Action with Respect to Claim
510.70 Horses under Lien
510.80 Affadavit May be Required
510.90 Claimant's Responsibility
510.100 Claimed Horse's Certificate
510.110 Engagements of a Claimed Horse
510.120 Protests of a Claim
510.130 Title to a Claimed Horse
510.140 Distribution of the Purse
510.150 Delivery of a Claimed Horse
510.160 Trainer Responsibility for Post-Race Tests
510.170 Excusing Claimed Horse
510.180 Stable Eliminated by Fire or Other Hazard
510.190 Entering Claimed Horse
510.195 Determining Eligibility Dates
510.200 Claimed Horse Racing Elsewhere
510.210 Sale of a Claimed Horse
510.220 Illinois Rules Govern Claimed Horse
510.230 Extension of Regular Meeting (Repealed)
510.240 Claiming Authorization

AUTHORITY: Implementing and authorized by the Illinois Horse Racing Act of 1975 [230 ILCS 5].

SOURCE: Adopted at 5 Ill. Reg. 1686, effective February 16, 1981; amended at 5 Ill. Reg. 8300, effective August 5, 1981; codified at 5 Ill. Reg. 10911; amended at 7 Ill. Reg. 2167, effective February 4, 1983; amended at 7 Ill. Reg. 3197, effective March 14, 1983; amended at 8 Ill. Reg. 14992, effective August 6, 1984; amended at 14 Ill. Reg. 17636, effective October 16, 1990; amended at 17 Ill. Reg. 12423, effective July 15, 1993; amended at 17 Ill. Reg. 13612, effective July 30, 1993; amended at 18 Ill. Reg. 2064, effective January 21, 1994; amended at 18 Ill. Reg. 11607, effective July 7, 1994; amended at 19 Ill. Reg. 13887, effective October 1, 1995; amended at 20 Ill. Reg. _____, effective _____.

ILLINOIS RACING BOARD

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Section 510.195 Determining Eligibility Dates

To determine the date when a claimed horse is eligible to race at a different location pursuant to Section 510.200 of this Part or may be sold or transferred pursuant to Section 510.210 of this Part, the counting of days shall begin on the day after the horse is claimed and shall continue through the expiration of the time period provided (e.g., a horse may be sold or transferred on the 31st day after the claim pursuant to Section 510.210 of this Part).

(Source: Added at 20 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Procedures and Standards

2) Code Citation: 92 Ill. Adm. Code 1001

3)

Section Numbers:	Proposed Action:
1001.410	Amend
1001.441	Amend
1001.442	Amend
1001.443	Amend
Appendix A	Amend

4) Statutory Authority: Authorized by the Illinois Vehicle Code, 625 ILCS 5/11-501, as amended by P.A. 88-238, effective January 1, 1994.

5) A Complete Description of the Subjects and Issues Involved: The proposed changes are being made to clarify definitions relating to the Breath Alcohol Ignition Interlock Device (BAIID) Pilot Program and to more accurately reflect how the program operates in dealing with the public.

6) Will this Proposed Rule Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date: No

8) Do These Proposed Amendments Contain Incorporations by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Interested parties may submit written comment within 45 days after publication to:

Jay Mesi, Senior Legal Advisor
Department of Administrative Hearings
Secretary of State
288 Howlett Building
Springfield, IL 62756
217/785-8237

12) Initial Regulatory Flexibility Analysis:

A) Types of Small Businesses and Municipalities Affected: Installers hired by manufacturers to install the devices.

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B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements.

C) Types of Professional Skills necessary for Compliance: Same as under current rules.

13) Regulatory Agenda on which this rule was summarized: January, 1996.

The full text of the proposed amendments begins on the next page.

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN DRIVERS LICENSE SUSPENSIONS AND REVOCATIONS

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SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section
1001.400 Applicability
1001.410 Definitions
1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations Pursuant to Sections 6-205(a)2, 6-205(d), 6-206(a)1, 6-206(a)6, 6-206(a)17, 6-206(a)24, 6-206(a)31, 6-201, 6-203, 6-203.1 and 11-501.1
1001.441 Breath Alcohol Ignition Interlock Device Pilot Program
1001.442 Manufacturer's Responsibilities: Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions
1001.443 Installers' Responsibilities; Initial Certification; Renewal; Termination; Revocation and Denial of Installer Certification
1001.450 New Hearings
1001.460 Requests for Modification of Revocations and Suspensions
1001.470 Renewal, Correction and Cancellation of RDP's
1001.480 Unsatisfied Judgment Suspensions
1001.485 Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490 Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section
1001.500 Applicability
1001.510 Definitions
1001.520 Procedure
1001.530 Conduct of Medical Formal Hearings
1001.540 Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES; PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT HEARINGS; RESTRICTED DRIVING PERMITS

1001.600 Applicability
1001.610 Definitions
1001.620 Burden of Proof
1001.630 Implied Consent Hearings; Religious Exception
1001.640 Implied Consent Hearings; Medical Exception
1001.650 Rebuttable Presumption

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1001.660 Alcohol and Drug Education and Awareness Program
1001.670 Petitions for Restricted Driving Permits
1001.680 Form and Location of Hearings
1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

1001.700 Applicability
1001.710 Definitions
1001.720 Organization of Motor Vehicle Review Board
1001.730 Motor Vehicle Review Board Meetings
1001.740 Board Fees
1001.750 Notice of Protest
1001.760 Hearing Procedures
1001.770 Conduct of Protest Hearing
1001.780 Mandatory Settlement Conference
1001.785 Technical Issues
1001.790 Hearing Expenses; Attorney's Fees
1001.795 Invalidity

APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines

AUTHORITY: Subpart A implementing Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implementing Chapter 7 and authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implementing Sections 6-205(c) and 6-206(c)3 and authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implementing Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implementing Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implementing and authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1,

1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcoholic liquor or other drugs.

"Abstract" means a summary of a driver's records of traffic law violations, accidents, suspensions, revocations, cancellations, address and personal information of the driver, as contained in the files of the Office of the Secretary of State.

"Accredited educational course" means any class or course of instruction offered by an accredited educational institution, which course is either vocational in nature, or is part of the matriculation process in receiving an academic degree, diploma, or certificate. It shall also include attendance at any required instructional class in an apprentice program.

"Accredited education institution" means any school, or institution, whether public or private, which offers classes or courses of instruction, and which is reviewed and approved or granted a waiver of approval by the controlling state agency.

"Alcohol" means ethanol, commonly referred to as ethyl alcohol or alcoholic beverage.

"Alcohol and Drug Evaluation (Investigative)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(D) of this Subpart. The evaluation must be completed on a form prescribed by the Department.

This evaluation will be conducted as required pursuant to Sections 1001.420(1) and 1001.430(d) of this Subpart, when:

the current loss of driving privileges is not related to a DUI arrest/disposition yet the Petitioner's driving record contains a prior DUI disposition within the last ten (10) years for which the Petitioner did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges; or

there is evidence that the Petitioner may be a user of alcohol or any other drug to a degree which renders such a person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code)

"Alcohol and Drug Evaluation (Out-of-State)" means a typewritten report which conforms to standards established by the Department as specified in Section 1001.440(a)(6)(C) of this Subpart.

"Alcohol and Drug Evaluation (Uniform Report)" means a typewritten report which conforms to standards established by the Illinois Department of Alcoholism and Substance Abuse (DASA). (See 77 Ill. Adm. Code 2056.305) The evaluation must be completed on a form prescribed by DASA. The evaluation must be signed and dated by both the evaluator and the Petitioner.

"Alcohol and Drug Evaluation (Update)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(B) of this Subpart. The evaluation must be completed on a form prescribed by the Department. The update evaluation must be completed by a program in accordance with the provisions of Section 1001.440(a)(6)(A) of this Subpart.

"Alcohol and Drug Related Driver Remedial Program" means an educational program concerning the effects of alcohol/drugs on drivers of motor vehicles, which conforms to the standards established by DASA. (See 77 Ill. Adm. Code Subpart D)

"Alcohol Setpoint" means the minimum or nominal BrAC (0.025) ~~(0.02)~~ at which a device is set to lock a vehicle's ignition.

"BAC" means blood alcohol concentration as determined by a chemical test administered by police authorities or medical personnel to measure the concentration of alcohol in the bloodstream.

"BAIID Eligible Petitioner" means an Illinois resident who is in any one of the following populations:

1) Any recidivist as defined in this Subpart;

2) Any individual classified Level III Dependent with at least six (6) but less than twelve (12) months of abstinence from alcohol and/or drugs;
3) Any individual with three (3) DUI dispositions if:
   A) The last DUI arrest occurred within the three (3) year period preceding the date of the hearing; or
   B) Any one of the DUI dispositions involved a BrAC or BAC of 0.20 or more;
4) Any individual with four (4) or more DUI dispositions.

A BAIID Eligible Petitioner shall not include anyone in the above populations if the BAIID Eligible Petitioner had a hearing and was granted a RDP prior to May 10, 1994, and was eventually issued a RDP/JDP as a result of that hearing, regardless of whether the permit is currently in effect or not, as long as that BAIID Eligible Petitioner does not receive a DUI disposition subsequent to the issuance of that RDP/JDP.

"BAIID Permittee" means a BAIID Eligible Petitioner who has been issued a RDP as a result of a hearing conducted under the Program.

"Breath Alcohol Ignition Interlock Devices (BAIID)" means a mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of a vehicle. If the unit detects a BrAC test result below the alcohol set point the unit will allow the vehicle ignition switch to start the engine. If the unit detects a BrAC test result above the alcohol setpoint set-point the vehicle will be prohibited from starting. The unit or combination of units to be approved by the Secretary, in consultation with DPH, shall measure breath alcohol concentrations by breath analysis and shall include both simple and complex units.

"BrAC" means the w/v breath alcohol concentration.

"Certificate" means evidence issued by the manufacturer to an individual as proof of his authority and competence to install, accuracy check, calibrate and/or maintain ignition interlock devices.

"Certified Controlled Reference Sample" means a suitable reference of known ethyl alcohol concentration.

"Circumvention" means an overt, conscious effort to bypass the BAIID ~~whether--by-providing-samples-other-than-the-natural-unfiltered-breath of-the-driver;-or-any-other-act-intended-to-start-the-vehicle--without first--taking--and--passing-a-breath-test-and-thus-permitting-a-driver with-a-BrAC-in-excess-of-the-alcohol-setpoint-to-start-the-vehicle.~~

"Clinical Impression" means a qualified professional's (See definition of "Alcohol or Drug Evaluation") interpretation of specific data,

which is obtained during the treatment process, regarding the effectiveness of treatment provided.

"DASA" means the Illinois Department of Alcoholism and Substance Abuse.

"Department" means the Department of Administrative Hearings of the Office of the Secretary of State.

"Designated Driver Remedial or Rehabilitative Program" means an alcohol or drug evaluation, an alcohol or drug related driver remedial program, an alcohol or drug treatment program, the Office driver improvement program, or any similar program intended to diagnose and change a Petitioner's driving problem as evidenced by the Petitioner's abstract. (See Sections 6-205(c) and 6-206(c)3 of the Code)

"Device" means a breath alcohol ignition interlock device approved by the Secretary after consultation with DPH.

"Director" means the Director or Acting Director of the Department.

"Documentation of Abstinence" means testimony and documentation, in the form of affidavits, letters, etc., from individuals who have regular, frequent contacts with the Petitioner (e.g., spouse, significant other, employer, co-workers, roommates) verifying that to the best of their knowledge the Petitioner has been abstinent from alcohol/drugs for a specified period of time.

"Driver License Compact" is an agreement among signatory states which deals with the problems of: issuing drivers' licenses to people who move from one signatory state to another; and drivers who are licensed in one signatory state and convicted of traffic offenses in other such States. Said Compact has been codified in Illinois and is found in Chapter 6, Article VII, of the Code.

"DPH" means the Illinois Department of Public Health.

"DUI" means driving under the influence.

"DUI Disposition" means any conviction or supervision for DUI, or any conviction of reckless driving reduced from DUI, and any statutory summary suspension or implied consent suspension. For purposes of the Breath Alcohol Ignition Interlock Device Pilot Program, the definition of the term "DUI Disposition" shall include any conviction for reckless homicide.

"Employ" or "Employed" or "Employment" shall all relate to activity for compensation to support oneself or one's dependents as well as

activities ordered by a court in connection with a sentence which includes the completion of a term of community service.

"Evaluator" means any person licensed to conduct an alcohol and drug evaluation by DASA. (See 77 Ill. Adm. Code 2056.1) A treatment provider may be considered an evaluator for the purpose of completing an updated evaluation in accordance with Section 1001.440(a)(6)(A) of this Subpart.

"Failure to Successfully Complete a Rolling Retest" means anytime the BAIID Permittee registers a BrAC reading of 0.05 or more on a rolling retest or fails to perform a rolling retest which has been requested.

"Fee" means the statutory fees for restricted driving permits or reinstatement of driving privileges, as specified in Section 6-118 of the Code.

"Hearing" means informal hearings and/or formal hearings.

"Initial Monitor Report" means the monitor report obtained or required to be obtained within the first thirty (30) days after initial installation of the device. ~~Obtaining and analyzing this report will also serve to help instruct the BAIID Permittee on how to correctly use the device when the report indicates deficiencies in performance.~~

~~"Inspector" means an individual who through specialized training is certified by one manufacturer to examine, certify, and maintain devices. The individual shall have an extensive background in breath analysis instrumentation.~~

"Installer" means an individual trained ~~and certified~~ by a BAIID manufacturer to install and/or maintain a device and employed by a recognized service center, vendor or manufacturer.

"JDP" means a Judicial Driving Permit, as defined by Section 6-206.1 of the Code which may be ordered by the court of venue to "first offenders" as defined in Section 11-501.1 of the Code.

"Level I - Minimal Risk" means the classification resulting from an alcohol and drug evaluation assigned to a Petitioner who has no prior conviction or court ordered supervision for DUI or statutory summary suspension or reckless driving conviction reduced from DUI, and a blood alcohol concentration (BAC) of less than .15 as a result of the most current arrest for DUI, and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2056.310)

"Level II - Moderate Risk" means the classification resulting from an alcohol and drug evaluation assigned to a Petitioner who has no prior

conviction or court ordered supervision for DUI or statutory summary suspension or reckless driving conviction reduced from DUI and a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI, and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2056.310)

"Level II - Significant Risk" means the classification resulting from an alcohol and drug evaluation assigned to a Petitioner who has a prior conviction or court ordered supervision for DUI or statutory summary suspension or reckless driving conviction reduced from DUI and/or a blood alcohol concentration (BAC) of .20 or higher as a result of the most current arrest for DUI and/or other symptoms of substance abuse. (See 77 Ill. Adm. Code 2056.310)

Level III - High Risk" means the classification resulting from an alcohol and drug evaluation assigned to a Petitioner with:

symptoms of substance dependence (regardless of driving record), hereinafter referred to as a Level III Dependent; and/or

two prior convictions or court ordered supervisions for DUI or statutory summary suspensions or reckless driving convictions reduced from DUI or any combination thereof resulting from separate incidents, within the ten (10) year period prior to the date of the most current (third or subsequent) arrest, hereinafter referred to as Level III Non Dependent. (See 77 Ill. Adm. Code 2056.310)

"Lockout" means the device must prevent engine ignition by a virtual lock with 90% certainty or near absolute lock at 99.5% certainty, unless it is serviced or recalibrated.

"Manufacturer" means the maker of a BAIID or its authorized representative.

"Medical or Physical BAIID Modification" means a demonstrated physical or medical condition documented in writing by a physician that consistently interferes with the normal operation of the BAIID by the BAIID Permittee for which the Department may authorize a modification of the BAIID or its programming to accommodate the condition without sacrificing the intent of the BAIID Program.

"Monitor Report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC

reading, and any evidence of tampering or circumvention of the device.

"National Driver Register" means a central index, maintained by the U.S. Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

"Office" means the Office of the Secretary of State and not any particular Department, address, or location.

"Permanent Lockout" means that feature of the BAIID that prevents ~~causes~~ a vehicle with the device installed from starting after the lapse of the five (5) days and requires servicing by the manufacturer/installer of the device to make the vehicle operable ~~to become permanently inoperable~~ for any failure to take the vehicle with the device to the manufacturer or installer for any required monitor report or for any failure to send the device to the manufacturer within five (5) days after any service or inspection notification. ~~A permanent lockout must prevent the vehicle from starting after the lapse of the five (5) days and require servicing by the manufacturer/installer of the device to make the vehicle operable.~~

"Petitioner" is the party who seeks or applies for relief from the Office from the suspension, revocation, cancellation, or denial of his/her driving privileges pursuant to the provisions of the Illinois Vehicle Code.

"Program" means the BAIID Pilot Program administered by the Secretary.

"RDP" means a restricted driving permit, as defined by Section 1-173.1 of the Code and limited as specified in Sections 6-205(c) and 6-206(c)3 of the Code.

"Recidivist" means an individual who had lost driving privileges due to a DUI disposition, received a JDP or driving relief resulting from ~~through~~ the administrative hearing for a DUI disposition, the arrest date of which occurred on or after January 1, 1982 ~~process~~, and thereafter received another DUI disposition causing a further loss of driving privileges regardless of whether it is the reason for the current loss of driving privileges.

"Reinstatement" means the restoration of driving privileges entitling the Petitioner to apply for a new driver's license in accordance with the requirements of the Illinois Vehicle Code and the Rules promulgated thereunder.

"Respondent" means a person against whom a complaint or petition is filed, or who, by reason of interest in the subject matter of a

petition of application or the relief sought therein, is made a Respondent or to whom an order or complaint is directed by the Department initiating a proceeding.

"Rolling Retest" means that feature of the device that requires the driver to take another BrAC test(s) after the initial test to start the vehicle. ~~Upon failure of a retest or failure to take the retest, the device will cause attention to be drawn to the vehicle, such as, but not limited to, sounding of the horn of the vehicle.~~

"Secretary" means the Illinois Secretary of State.

"Self-help Program" means an independent non-profit organization comprised of individuals who hold voluntary meetings specifically to help each member to achieve and/or maintain abstinence from alcohol and/or other drugs.

"Service or Inspection Notification" means that feature of the device that advises or notifies the BAIID Permittee to either take the vehicle with the device installed to the manufacturer or installer or send the device to the manufacturer for the required inspection and the monitor report. ~~Such notification shall be given by the device in the following cases: anytime the device records a BrAC test result of 0.05 or more; five (5) or more unsuccessful attempts to start the vehicle after the initial monitor report; to notify BAIID Permittee of the initial monitor reports after any rolling retest failure or refusal following the initial monitor report; after any attempted tampering or circumvention after the initial monitor report; every sixty (60) days after the initial monitor report.~~

"Service Center" means a dealer, distributor, supplier, or other business engaged in the installation of devices.

"Significant Other" means any person with whom an individual is experiencing an ongoing, close association that represents a meaningful part of that individual's established life style (e.g., spouse, other family member, employer, co-worker, clergy member, roommate).

"Stressed" means conditions such as temperature extremes, vibration, and power variability.

"Support/Recovery Program" means specific activities which a recovering alcoholic/chemically dependent person has incorporated into his/her life style to help support his/her continued abstinence from alcohol and other drugs. This may include, but is not limited to, participating in a self-help group (Alcoholics Anonymous, Narcotics Anonymous, etc.), a professional support group, or regularly and

frequently engaging in religious activities which have a distinct and positive effect on an individual's continued abstinence. Any activity and its relationship to the individual's ability to remain abstinent must be clearly identified and verified by proper documentation independent from an individual's self report (such as indicated in Section 1001.440(e) through (i) of this Part). The Hearing Officer shall determine the viability of the activity as a means of supporting continued abstinence, taking into account all the evidence brought forward at the hearing.

"Tampering" means an overt, conscious attempt to ~~physically~~ disable or ~~otherwise~~ disconnect the BAIID ~~from its power source and thereby allow a person with a BrAC above the alcohol setpoint to start the engine~~.

"Twenty-four Hour Lockout" means that feature of the device that causes a vehicle with the device installed to become inoperable for a period of twenty-four hours any time the device registers three (3) a BrAC readings of 0.05 or more within a thirty (30) minute period.

"Undue Hardship" as it relates to educational pursuits means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It is more than mere inconvenience to the Petitioner, and pertains only to the Petitioner. All other reasonable means of transportation must be unavailable to the Petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue Hardship" relating to employment means, as used in the context of Sections 6-205(c) and 6-206(c)3 of the Code an extreme difficulty in regard to getting to or from a Petitioner's place of employment or to operate on a route during employment; e.g., as delivery person, because of the suspension, revocation, or cancellation of the Petitioner's driving privileges. It is more than mere inconvenience on the Petitioner and pertains only to the Petitioner. All other reasonable means of transportation must be unavailable to the Petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue Hardship" as it relates to necessary medical care means an extreme difficulty in regard to getting to and from a location where Petitioner or a member of his/her immediate family receives examinations, therapy or treatment, etc., prescribed or recommended by a physician and, in the case of a diagnosis or clinical impression of alcoholism/chemical dependency, where a Petitioner is participating in an ongoing support program as prescribed or recommended by a physician or other qualified professional. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by

the mere fact that the Petitioner's driving privileges are suspended or revoked.

"Unsuccessful Attempt To Start The Vehicle" means anytime the BAIID Pemittee registers a BrAC reading of 0.025 or more when attempting to start the vehicle.

"Vehicle" for purposes of the Breath Alcohol Ignition Interlock Device Pilot Program, means every apparatus in, upon or by which any person or property is or may be transported or drawn upon a highway which is self-propelled, except for apparatuses moved solely by human power, motorized wheelchairs, and motorcycles.

"Vendor" means a retail or wholesale supplier of a device, and may include a service center.

"W/V" means weight of alcohol in the volume of breath based upon grams of alcohol per 210 liters of breath.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1001.441 Breath Alcohol Ignition Interlock Device Pilot Program

a) A pilot program is hereby established to integrate the issuance of a RDP(s) to a petitioner conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID). The Secretary finds that a BAIID Eligible Petitioner is one who has demonstrated through his/her driving record that he/she poses a serious threat to the public safety and welfare and that the issuance of driving privileges to such a person should be conditioned upon the use of the BAIID to monitor the petitioner's driving performance for a substantial portion of the period for which the RDP has been issued. The pilot program shall also be used to assess the effectiveness, reliability and dependability of the BAIID and/or its vendors, and will commence with the effective date of these rules ~~and terminate no later than June 30, 1996~~.

b) The Secretary shall notify any BAIID Eligible Petitioner who requests a hearing of the requirements of the program. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification. Any BAIID Eligible Petitioner who requests additional information shall be given information regarding all of the provisions and conditions of the program, the availability of the device and the approved manufacturers or installers to contact for further information regarding installation, costs, maintenance, and other pertinent information.

c) All hearings involving a BAIID Eligible Petitioner seeking driving

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relief shall be formal hearings. Any extension or modification of a RDP issued under the program may be done at an informal hearing. Any hearing involving a BAIID Eligible Petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.

d) The Secretary shall issue a RDP to a BAIID Eligible Petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of Section 1001.440 of this Part and installs and utilizes a device in any motor vehicle operated by the BAIID Eligible Petitioner as required by the RDP issued under the Program.

e) Prior to the taking of evidence at the hearing, or as soon as a Petitioner is determined to be BAIID Eligible:

1) The Secretary shall make sure that the BAIID Eligible Petitioner understands: all of the provisions and conditions of the program; that to obtain a RDP the BAIID Eligible Petitioner must minimally meet all of the requirements of Section 1001.440 of this Part and install and utilize the device; that participation in the program does not guarantee issuance of a RDP; and that all costs associated with the device are the responsibility of the BAIID Eligible Petitioner; and

2) The BAIID Eligible Petitioner shall advise the Secretary that he/she understands all of the provisions and conditions of the program and whether he/she chooses to participate in the program. If the BAIID Eligible Petitioner is unwilling to use the device, he/she shall be advised that no relief will be granted and no hearing will be held.

f) After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.

1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.

2) If the hearing officer determines that a RDP should be granted, an order granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under the program for hearings scheduled after June 28, 1996, shall require continued use of the device for a substantial portion of the period for which the RDP has been issued.

g) After the issuance of an order granting a RDP under this program, in addition to the other requirements under this Part, the installer ~~BAIID Eligible Petitioner~~ must notify ~~prove to~~ the Secretary that a device has been installed in the vehicle(s) designated ~~to be used~~ by the BAIID Permittee ~~Eligible Petitioner~~ within seven (7) days from the date of the installation of the device. Proof of installation shall be in writing, on letterhead from the installer or manufacturer. The BAIID Permittee may operate the vehicle for fourteen (14) days from the issuance of the RDP without the device installed only for the purpose

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of taking the vehicle to a manufacturer or installer for installation of the device. ~~Petitioner shall have fourteen (14) days from the date of issuance of the RDP to have a device installed in the vehicle(s) to be used by the Petitioner and may operate the vehicle without the device in order to take the vehicle to a manufacturer or installer for installation.~~ Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.

h) Any BAIID Eligible Petitioner receiving a RDP under this program must comply with the following requirements:

1) Operate only a vehicle(s) with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the BAIID Permittee as required by the RDP issued under the program;

2) Take the vehicle with the device installed to the manufacturer or installer or send the appropriate portion of the device to the manufacturer within the first thirty (30) days for an initial monitor report to help the BAIID Permittee learn how to correctly use the device, and thereafter not sooner than every fifty (50) days nor longer than every sixty (60) days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the manufacturer or installer.

3) Take the vehicle with the device installed to the manufacturer or installer or send the appropriate portion of the device to the manufacturer for a monitor report within five (5) working days after any service or inspection notification.

4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a rolling retest, or any problems with the device.

i) Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action:

1) For any BAIID Permittee who fails to take the vehicle with the device in for timely monitor report(s) or send the appropriate portion of the device to the manufacturer for timely monitor report(s), send a letter to the BAIID Permittee indicating that if the device is not taken in for a monitor report within ten (10) days after the date of the letter, the RDP will be cancelled. ~~It is the BAIID Permittee's responsibility to contact the manufacturer/installer to make sure monitor reports are obtained;~~

2) For any BAIID Permittee whose monitor report(s) shows five (5) or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a rolling retest, or ~~tampering with or circumvention of the device~~ during the initial monitor period, send a warning letter to the BAIID Permittee indicating that future unsuccessful attempts to start the vehicle or ~~could result in the BAIID Permittee either being cited in for a hearing to~~

~~cancel the RDP or the immediate cancellation of the RDP if the BAIID Permittee's monitor report(s) shows a~~ failure to successfully complete a rolling retest will result in the Secretary sending a letter to the BAIID Permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a rolling retest ~~or tampering with or circumvention of the device after the initial monitor report period~~;

3) For any BAIID Permittee whose monitor report(s) shows five (5) or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID Permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle ~~device~~. If a response is received within twenty-one (21) days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within twenty-one (21) days or does not reasonably assure the Secretary, the RDP will be cancelled ~~the BAIID Permittee shall be cited in for a hearing to determine if the RDP should be cancelled~~;

4) For any BAIID Permittee whose monitor report(s) show a failure to successfully complete a rolling retest, ~~or any tampering with or circumvention of the device,~~ after the initial monitor report period, send the BAIID Permittee a letter asking for an explanation of the failure to successfully complete a rolling retest. If a response is received within twenty-one (21) days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within twenty-one (21) days or does not reasonable assure the Secretary, the RDP will be cancelled ~~immediately cancel the RDP~~;

5) For any BAIID Permittee whose monitor report(s) shows a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained herein, there shall arise a rebuttable presumption that the BAIID Permittee consumed alcoholic beverages. The presumption may ~~which shall~~ result in the ~~immediate~~ cancellation of the RDP if the BAIID Permittee is required to abstain from alcohol, claimed abstinence at the time of the hearing, or agreed at the hearing not to consume alcohol to the point of attaining a BrAC of 0.025 while attempting to drive a vehicle. In such case, the Secretary shall send a letter asking for an explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within twenty-one (21) days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID Permitted did not consume alcoholic beverages, no further action will be taken. If a response is not received within twenty-one (21) days or does not reasonably assure the

Secretary, the RDP will be cancelled ~~The presumption may be overcome at an administrative hearing requested by the BAIID Permittee~~;

6) For any BAIID Permittee whose initial monitor or monitor report(s) show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device. ~~For any BAIID Permittee whose monitor report(s) shows apparent violations of the restrictions of the RDP, send a letter to the BAIID Permittee asking for an explanation. If a response is received within twenty one (21) days after the date of the Secretary's letter and it reasonably assures the Secretary that the RDP restrictions were not violated, no further action will be taken. If response is not received within the twenty one (21) days or does not reasonably assure the Secretary that no violation(s) of the restriction of the RDP occurred, the BAIID Permittee shall be cited in for a hearing to investigate the apparent violation(s) of the restrictions to determine if the RDP should be cancelled. If the evidence shows that the BAIID Permittee drove outside the restrictions of the RDP, it shall be cancelled~~.

j) Receipt of any one of the following shall also be grounds for immediate cancellation of a RDP issued under this program:

1) Any law enforcement report showing operation of a vehicle by a BAIID Permittee without a device as required by the RDP issued under this program. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;

2) Any law enforcement arrest/stop involving a failed rolling retest or failure to take a rolling retest if the officer's report indicates the use of alcoholic beverages and/or drugs by the BAIID Permittee. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it or a copy, if the original is submitted to the court, along with a law enforcement report to the Secretary;

3) Written notification ~~verification~~ from a manufacturer/installer on a removal/deinstallation report form stating that their device ~~previously~~ installed in a Permittee's vehicle has been removed and/or is no longer being utilized by the Permittee, as required by subsection (d) above;

4) Any law enforcement report involving a DUI or other alcohol related arrest/stop.

k) Any BAIID Permittee whose RDP issued under this program is cancelled as provided for in this Section may request a hearing to contest the cancellation within sixty (60) days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal

hearing under this Part. Any BAIID Permittee whose RDP is cancelled under the provisions of subsection (l)(5) of this Section who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.

l) Any BAIID Permittee whose RDP issued under this program is cancelled for any reason in this Section shall not be granted another hearing for any type of driving relief for one (1) year from the date of the cancellation, except to contest the cancellation as provided in subsection (k) above. BAIID Permittees who voluntarily have their RDP's cancelled and have not committed any offense or act that would have been reason for the cancellation of their RDP may be granted a hearing for any type of driving relief within one (1) year from the date of cancellation.

m) Any formal order entered which grants the issuance of a RDP under this program shall, in addition to all other requirements, clearly indicate the following:

1) That the RDP is issued under the program;

2) That the BAIID Permittee is aware of the program and all of its conditions and terms and accepts those conditions and terms as conditions precedent to the issuance of the RDP.

n) Any RDP(s) issued under this program shall, in addition to all other requirements, clearly indicate:

1) That the permit is issued under the program, and when a vehicle operated by a BAIID Permittee must be equipped with an installed, operating device;

2) That the provisions of the RDP also allow the BAIID Permittee to drive to and from the manufacturer or installer for the purposes of installing the device within fourteen (14) days of the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.

o) The Secretary authorizes DPH to check and monitor the manufacturers and installers as to their calibration and monitor report procedures.

p) The Secretary shall gather all monitor reports, any reports from DPH and any other information relative to the performance, dependability, reliability, and effectiveness of the use of the device. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.

q) The Secretary may make a medical or physical BAIID modification for RDPs issued under the program.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1001.442 Manufacturer's Responsibilities; Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions

a) The responsibilities of a device manufacturer shall include:

1) The manufacturer shall carry product liability insurance with minimum liability limits of $1 million per occurrence and $3 million aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as manufacturing, calibration, installation, and removal of devices. The proof of insurance shall include a statement from the insurance company that thirty (30) days notice will be given to the Secretary and DPH before cancellation of the insurance;

2) The manufacturer shall indemnify and hold harmless the State, the Secretary and its officers, employees and agents, and DPH and its officers, from all claims, demands, actions and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use or removal of a device;

3) The manufacturer of a device shall develop separate detailed written instructions regarding the installation, maintenance and the normal operation of the device;

4) The manufacturer shall provide an 800 customer service/question/complaint hotline;

5) The manufacturer shall provide a training program for the individual operating the device on operation, maintenance, and safeguards against improper operations. The manufacturer shall warn the BAIID Permittee that any tampering with or unauthorized circumvention of the device will result in the immediate cancellation of their RDP. The manufacturer shall instruct the BAIID Permittee and other individuals participating in the training program to maintain a journal of events surrounding failed readings or problems with the device;

6) The manufacturer shall provide informational materials to the Secretary for distribution to BAIID Eligible Petitioners;

7) The manufacturer shall provide a warranty of performance to ensure responsibility for support of service within a maximum of forty-eight (48) hours after notification of a request for service complaint. This support shall be in effect during the period the device is required to be installed in a motor vehicle;

8) The manufacturer shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to the method of manufacture of the device, how said device functions, and the testing protocol by which the device was approved. In the event it should become necessary for the Secretary or DPH to provide testimony in any civil or criminal procedures involving the approval or use of the device, the manufacturer shall reimburse the Secretary or DPH for any costs incurred in providing such testimony. Failure to provide this reimbursement shall result in withdrawal of approval for the device;

9) The leases, fee schedules, installation verification forms, noncompliance report forms, calibration verification/tamper

report forms, and removal/deinstallation report forms used by manufacturers in the program shall be approved by the Secretary; ~~The manufacturer shall provide training to the Secretary's employees and DPH's inspectors as soon as possible after preliminary approval and prior to installation of devices in the State of Illinois at no cost;~~

10) If a manufacturer requires a security deposit by a BAIID Pemittee and the amount of the deposit required is more than an amount equal to one (1) month's rental or lease fee, said security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the manufacturer's Illinois BAIID region. The manufacturer will provide the Secretary with a certified statement of the escrow account upon his request. ~~The manufacturer shall provide a training program for the service center, vendor, and/or installer installing the device on:~~

~~A) Installation, operation, maintenance, and safeguards against improper operations;~~

~~B) The psychologically, physiological and pharmacological effects of alcohol in the human body; and~~

~~C) The theory of instruments used in the analytical process which measures alcohol concentration;~~

11) Any manufacturer whose device is installed must submit monitor reports to the Secretary ~~and DPH~~ no later than seven (7) ~~fifteen (15)~~ days from the date the device is brought in for a monitor report or an appropriate portion of the device is sent to the manufacturer ~~if the report does not contain five (5) or more unsuccessful attempts to start the vehicle, a BrAC of .05 or more, any unsuccessful rolling retests, or tampering with or circumvention of the device; otherwise the report shall be submitted within five (5) days. Notwithstanding the above, the initial monitor report shall be submitted within fifteen (15) days from the date the device is brought in or the appropriate portion of the device is sent in for the initial monitor reports.~~ These monitor reports shall be transmitted using agreed upon electronic transfer protocols. The Secretary shall provide an electronic copy of all monitor reports to DPH ~~or in hard copy~~;

12) The manufacturer shall provide to the Secretary upon request ~~and DPH~~ additional reports, to include but not be limited to records of installation, reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State. These records shall be agreed upon and transmitted using electronic transfer protocols and a copy shall be provided by the Secretary to DPH upon request ~~or in hard copy~~;

13) The manufacturer shall provide to the Secretary any available physical evidence of tampering with or circumvention of the device. The Secretary shall notify DPH of any such evidence upon request;

14) The manufacturer shall service all BAIID Permittees in their designated geographic region under standards established for that region as set forth in Appendix A.

b) Approval of BAIIDs for analyzing the alcohol content of breath:

1) Preliminary approval of a device may be granted by the Secretary, in consultation with DPH, based on a review and evaluation of test results from a state or nationally recognized certified laboratory test facility regarding the device's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C., 20590, (202)366-5543, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:

A) 1.4.S, Power, if the device is not designed to be operated from the battery.

B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below - 20°C and above +70°C.

C) 2.3.S, Warm Up, if the device is not designed to be operated below -20°C.

D) 2.5.S, Temperature Package, if the device is not designed to be operated below -20°C and above +70°C.

2) Within thirty-six (36) ~~eighteen (18)~~ months, final approval of a device may be granted by the Secretary, in consultation with DPH, based on a field testing protocol developed by the DPH and review of field performance results from the program.

3) No device shall be given approval if it demonstrates an accuracy rate $\geq$0.01 in unstressed conditions or $\geq$0.02 in stressed conditions.

4) Any device to be approved shall be designed and constructed with an alcohol setpoint of 0.025 ~~0.02~~.

5) Any device to be approved shall require the operator of the vehicle to submit to a rolling retest at a random time within five (5) to fifteen (15) minutes after starting the vehicle. Rolling retests shall continue at a rate of two (2) per hour in random intervals not to exceed forty-five (45) minutes after the first rolling retest.

6) Any device to be approved shall be designed and constructed to immediately begin blowing the horn if:

A) The rolling retest is not performed;

B) The BrAC readings of the rolling retest is 0.05 or more ~~exceeds .04~~;

C) Tampering or circumvention attempts are detected.

7) The device shall be required to have permanent lockout five (5) days after the Service or Inspection Notification if it is not serviced or calibrated. Notification shall be given by the device in the following cases: anytime the device registers three (3) BrAC readings of .05 or more within a thirty (30)

minute period; five (5) or more unsuccessful attempts to start the vehicle after the initial monitor report; to notify BAIID Permittee of the initial monitor report; a failure to successfully complete a rolling retest; after any attempted tampering or circumvention; every sixty (60) days after the initial monitor report.

8) The device shall be required to have Twenty-Four (24) Hour Lockout anytime the BAIID Permittee registers three (3) a BrAC readings of 0.05 or more within a thirty (30) minute period.

9) Any device to be approved shall provide for calibration at least once every sixty (60) days using a wet bath simulator or other approved equivalent procedure; ie., dry gas standard.

10) Any manufacturer/service center/vendor who sells, rents, and/or leases ignition interlock devices in Illinois shall report to the Secretary ~~and DPH~~ all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make, serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle within fifteen (15) days on a ~~monthly basis~~ using an agreed upon electronic transfer medium and format. The Secretary shall provide a copy of the information to DPH.

11) Any device which is not provided a preliminary approval or a final approval shall be re-tested at the request of the manufacturer but not more often than once in a given year.

12) A manufacturer may apply for preliminary approval of a device by submitting a written request to the Secretary and DPH certifying the device:
   A) Does not impede the safe operation of a vehicle.
   B) Minimizes opportunities to bypass the device.
   C) Performs accurately and reliably under normal conditions.
   D) Prevents a BAIID Permittee from starting a vehicle when the BAIID Permittee has a prohibited BrAC; ie, ~~+~~ $\geq$ 0.025 ~~0.02~~.
   E) Satisfies the requirements for certification set forth in this Section.

13) The written request shall include all of the following information:
   A) The name and address of the manufacturer of the device.
   B) The name and model number of the device. A separate request is required for each model or type of device.
   C) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal.
   D) Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features.
   E) A complete and accurate copy of data from a state or nationally recognized certified laboratory test facility

regarding the device's ability to meet or exceed the specifications in this Section.
   F) A description of the manufacturer's present and two (2) year plan for distribution and service in Illinois.
   G) A certification from the manufacturer that it will accept the region assigned as a result of a random draw and will service all BAIID Permittees residing in the designated region under standards established for that region.

14) The Secretary, in consultation with DPH, shall issue a preliminary approval or disapproval of a device no later than thirty (30) days after receipt of all required requested materials and certifications.

15) The manufacturer shall~~y within three (3) months after preliminary approval~~ provide the Secretary ~~and DPH's Alcohol and Substance Testing Program~~:
   A) A list of all locations in Illinois where the device may be purchase, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored in an agreed upon format. The manufacturer shall notify the Secretary of any new locations or any locations which are closed;
   B) Five (5) production devices of which three (3) will be used for field testing; and
   C) Training for the Secretary's employees and DPH's inspectors and program administrator at no cost.

16) The manufacturer shall, at no cost to the State of Illinois, install the selected devices for field testing in the vehicles provided by the Secretary and DPH. DPH shall independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering.

17) A list of approved devices shall be maintained by the Secretary.

c) DPH Inspections

DPH may conduct independent inspections on any of the devices, installers, service providers, or manufacturers to determine if they are in compliance with these rules. If the independent inspection indicates a noncompliance with the rules, DPH shall notify the Secretary and he shall require the manufacturer to correct any noncompliance so reported. The manufacturer shall report in writing to the Secretary ~~and DPH~~ within thirty (30) days after receiving notification of the noncompliance any corrective actions taken.

d) Disqualification of a Manufacturer

The Secretary shall disqualify a manufacturer or installer from participation in the program upon written notification and a thirty (30) day opportunity to come into compliance in any of the following cases:

1) Failure to submit monitor reports in a timely manner as provided

in subsection (a)(11). If the Secretary finds, through investigation, that the BAIID Permittee did take the vehicle with the installed device to the manufacturer or installer or sent the appropriate portion of the device to the manufacturer for a monitor report in a timely manner, a warning notification shall be sent to the manufacturer or installer indicating that a second such occurrence will result in cancellation of participation;

2) Failure to maintain liability insurance as required;

3) Failure to comply with all of the duties and obligations contained in this Part.

e) Designation and Assignment of Regions
The Secretary shall by a random draw designate a defined geographic region for each approved manufacturer participating in the program. Each manufacturer shall be responsible for establishing installation or service sites within its assigned region to service BAIID Permittees residing in said region under standards established for that region as set forth in Appendix A.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1001.443 Installer's Responsibilities~~, Initial Certification, Renewal, Termination, Revocation and Denial of Installer Certification~~

a) The responsibilities of installers of BAIID shall include:

1) An installer shall carry liability insurance with minimum liability limits of $1 million per occurrence and $3 million aggregate total. The liability insurance shall include coverage for defects in calibration, installation, and removal of devices. The proof of insurance shall include a statement from the insurance company that thirty (30) days notice will be given to the Secretary and DPH before cancellation of the insurance;

2) An installer shall indemnify and hold harmless the State, the Secretary and its officers, employees, agents, DPH and its officers, from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the installer relating to the installation, service, repair, use or removal of a device;

3) The installer shall have all tools, test equipment and manuals needed to install devices and screen motor vehicles for acceptable mechanical and electrical condition prior to installation. ~~These include, but are not limited to:~~

~~A) Tools to make electrical connections in a competent manner (properly soldered or mechanically crimped with high quality connectors and in accordance with accepted trade standards);~~

~~B) Heat gun, if heat shrink tubing or heat set labels are used;~~

~~C) Volt/ohmmeter;~~

~~D) Test light;~~

~~E) Battery testing equipment and servicing tools (load tester, terminal cleaning tools and battery filler);~~

~~F) Have the ability to access within one hour, via FAX or other means, electrical wiring diagrams and/or reference guide for electrical systems on import and domestic vehicles, twenty (20) years old or less, necessary for installation and operation of the device; and~~

~~G) Tools and equipment listed by the device manufacturer to properly install devices;~~

4) The installer shall provide adequate security measures to prevent access to the device ~~unauthorized persons from accessing secured materials~~ (tamper seals or installation instructions);

5) The installer shall appropriately install devices on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the device manufacturer's instructions, and correcting conditions (such as low battery or alternator voltage, or engine stalling frequent enough to require additional breath tests) which interfere with the proper functioning of the device. It must be the BAIID Permittee's responsibility to repair the vehicle if any condition exists that would prevent the proper functioning of the device. The installer should inform the BAIID Permittee of the problem that exists, but should not be responsible for repairing the vehicle;

6) The installer shall not install devices in a manner that could adversely affect the performance of the device or impede the safe operation of the motor vehicle;

7) The installer shall verify that a device is functioning properly after it has been installed in the motor vehicle;

8) The installer shall restore a motor vehicle to its original condition when a device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent; and

9) The installer shall provide a warranty of performance to assure responsibility for support of service within a maximum of forty-eight (48) hours after notification of a request for service ~~complaint~~. This support shall be in effect during the period the device is required to be installed in a motor vehicle.

~~b) Requirements for Initial Certification of Installers~~

~~1) To qualify as an installer of BAIIDs, the individual shall be provided instruction by the manufacturer of the device based on a curriculum approved by DPH which includes the following:~~

~~A) Presentation of the psychological, physiological and pharmacological effects of alcohol in the human body;~~

~~B) Theory of breath alcohol ignition interlock devices used in the analytical process which measures alcohol concentration;~~

~~C) Practical application in the use and installation of the device;~~

2) An individual to be certified under this Part shall satisfactorily complete a practical proficiency examination approved by BPH and administered by the manufacturer.

3) A certification shall be valid for a period of twenty-four (24) months from the date of issuance. A certification shall automatically terminate when the individual is no longer employed as a BAEIB installer.

4) Instructor Qualifications.

A) Instructors in courses designed to qualify persons for certification to install BAEIBs shall be certified by the manufacturer.

B) Any person desiring to qualify as an instructor shall submit an application to the manufacturer listing all technical and educational background.

C) Persons desiring to qualify as an instructor shall be knowledgeable on the subjects of the psychologically physiological and pharmacological effects of alcohol and the theory of devices approved for use in Illinois and demonstrate the ability to operate and install the manufacturer's device in accordance with its operational procedures.

D) The certification of an instructor shall be terminated, denied or revoked for the following reasons:

i) Inability to pass a practical evaluation;

ii) Teaching fewer than five (5) courses per year unless employed by the manufacturer or BPH.

c) Requirements for Renewal of Installer Certification:

1) Each installer must be examined prior to recertification by the manufacturer or his approved representative. This will be done on the following basis: In each twenty-four (24) month period, the installer, regardless of the number of installations he conducts, must successfully install and check a device for accuracy using a certified controlled reference sample in the presence of an instructor.

2) Within the two (2) year period each installer must complete the following:

A) A review of the operational theory of devices.

B) A review of current and related problems in the field.

d) Requirements for Termination, Revocation and Denial of Installer Certification:

1) The following are grounds for the revocation of a certification issued to the installer:

A) Misuse or improper installation of the device by the installer in such a way that the installer is in violation of State statutes or this Part;

B) Upon receipt of a complaint to the Secretary or BPH, a certified installer may be subject to review by an inspector in the operation and installation of the device using a certified controlled reference sample, and, at which time, his failure or refusal to perform analysis or installation properly may be grounds for certification revocation upon the recommendation of an inspector.

C) Dismissal or release of the installer from his employment.

2) A renewal of a certification under subsection (c) above or reissuance of a certification pursuant to subsection (b)(3) and/or (4) above may be denied for the following reasons:

A) Any grounds for revocation set forth in subsection (d)(1) above;

B) Failure to comply with subsection (c)(1) and (2) above.

3) If BPH finds that the public interest, safety or welfare imperatively requires emergency action, BPH shall incorporate a finding to that effect in an order summarily suspending a certification and forward it to the manufacturer pending proceedings for revocation or denial of certification.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines

a) The State of Illinois is divided into four (4) BAIID regions as follows:

1) Region 1 shall be comprised of the Counties of Boone, Bureau, Carroll, DeKalb, Grundy, Jo Daviess, Kendall, LaSalle, Lake, Lee, Livingston, McHenry, Ogle, Stephenson, Whiteside, Winnebago, and in Cook County the municipalities/ unincorporated areas of Alsip, Bedford Park, Bellwood, Berkeley, Berwyn, Bridgeview, Broadview, Brookfield, Burbank, Chicago Ridge, Cicero, Countryside, Evergreen Park, Forest Park, Forest View, Hickory Hills, Hillside, Hodgkins, Hometown, Indian Head Park, Justice, LaGrange, LaGrange Park, Lemont, Lyons, Merrionette ~~Martenette~~ Park, Maywood, Mc Cook, Melrose Park, North Riverside, Oak Lawn, Oak Park, Orland Hills, Orland Park, Palos Heights, Palos Hills, Palos Park, River Forest, Riverside, Stickney, Stone Park, Summit, Tinley Park, Westchester, Western Springs, Willow Springs, and Worth.

2) Region 2 shall be comprised of the Counties of Adams, Brown, Calhoun, Cass, DuPage, Fulton, Greene, Hancock, Henderson, Henry, Jersey, Knox, Macoupin, Marshall, Mason, McDonough, Menard, Mercer, Morgan, Peoria, Pike, Putnam, Rock Island, Schuyler, Scott, Stark, Warren, Woodford, and in Cook County the City of Chicago.

3) Region 3 shall be comprised of the counties of Bond, Champaign, Christian, Clark, Clay, Clinton, Coles, Cumberland, De Witt, Douglas, Edgar, Effingham, Fayette, Ford, Iroquois, Jasper, Kane, Kankakee, Logan, Macon, McLean, Montgomery, Moultrie, Piatt, Sangamon, Shelby, Tazewell, Vermillion, and in Cook County the municipalities/unincorporated areas of Barrington, Barrington Hills, Des Plaines, Elk Grove Village, Elmwood Park, Franklin Park, Hanover Park, Harwood Heights, Hoffman Estates, Inverness, Mount Prospect, Niles, Norridge, Northlake, Palatine, Park Ridge, River Grove, Rolling Meadows, Rosemont, Schaumburg, Schiller Park, South Barrington, and Streamwood.

4) Region 4 shall be comprised of the counties of Alexander, Crawford, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White, Will, Williamson, and in Cook County the municipalities/unincorporated ~~un-incorporated~~ areas of Arlington Heights, Blue Island, Burnham, Calumet Park, Calumet City, Chicago Heights, Country Club Hills, Crestwood, Dixmoor, Dolton, East Hazel Crest, Evanston, Flossmoor, Ford Heights, Glencoe, Glenview, Glenwood, Golf, Harvey, Hazel Crest, Homewood, Kenilworth, Lansing, Lincolnwood, Lynwood, Markham, Matteson, Midlothian, Morton Grove, Northbrook, Northfield, Oak

Forest, Olympia Fields, Park Forest, Phoenix, Posen, Prospect Heights, Richton Park, Riverdale, Robbins, Sauk Village, Skokie, South Holland, South Chicago Heights, Thornton, Wheeling, Wilmette ~~Willmette~~, and Winnetka.

b) The minimum installation/service center site location guidelines for each region follow. In the event that a BAIID is required for a Permittee who resides more than seventy-five (75) miles from any location in the region, installation and service must be provided by a mobile unit on site for the Permittee or at another alternative location which is acceptable to the Permittee:

1) Region 1: one in Lake County; one in Winnebago County; one in LaSalle County at a site within a five mile radius of the intersection of Interstate 39 and Interstate 80; and either one in both Municipal District 4 and Municipal District 5 of the Circuit Court of Cook County or one in Lyons Township;

2) Region 2: one in DuPage County; one in Knox County; one in Morgan County; and one in Chicago in Cook County;

3) Region 3: one in Effingham County; one in Kane County; one in Kankakee County; one in Sangamon County; one in Tazewell County; one in either Champaign or Urbana in Champaign County; and one in Municipal District 3 of the Circuit Court of Cook County;

4) Region 4: one in St. Clair County; one in Jefferson ~~Williamson~~ County; one in Will County at a site within a five mile radius of the intersection of Interstate 80 and U.S. Route 45; and one in Municipal District 2 of the Circuit Court of Cook County.

c) Any Permittee residing in a portion of a municipality located in Cook County not specifically identified to a particular region shall be considered to be in the region of the non-Cook County portion of the Permittee's municipality.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Employee Commute Options

2) Code Citation: 92 Ill. Adm. Code 600

3)

Section Numbers:	Proposed Action:
600.10	Repeal
600.20	Repeal
600.30	Repeal
600.40	Repeal
600.50	Repeal
600.60	Repeal
600.70	Repeal
600.80	Repeal
600.90	Repeal
600.100	Repeal
600.110	Repeal
600.120	Repeal
600.130	Repeal

4) Statutory Authority: Implementing and authorized by the Employee Commute Options Act (P.A. 87-1275, effective March 3, 1993) [625 ILCS 32].

5) A Complete Description of the Subjects and Issues Involved: The Clean Air Act Amendments of 1990 required states with severe nonattainment areas to implement a mandatory employer trip reduction program. In order to comply with this mandate, Illinois passed the Employee Commute Options Act [625 ILCS 32]. Pursuant to the Act, the Illinois Department of Transportation adopted rules implementing the Act at 92 Ill. Adm. Code 600.

In December 1995, the United States Congress passed and the President signed legislation amending the Clean Air Act to eliminate the requirement for such a program. In June 1996, the Illinois Employee Commute Options Act was repealed. Therefore, the Department no longer has statutory authority for the Employee Commute Options rule (92 Ill. Adm. Code 600).

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Those local governments maintaining worksites of 100 or more employees reporting to work will no longer be required to comply with this program.

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11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Ms. Susan Stitt, Air Quality Manager
Illinois Department of Transportation
Office of Planning and Programming
2300 South Dirksen Parkway, Room 307
Springfield, IL 62764
(217) 782-2863

JCAR requests comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217) 782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis: Businesses will no longer be required to comply with this Part.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Illinois Employee Commute Options Act [625 ILCS 32] was repealed in June 1996. Communication of that fact within the Department did not occur in time to include this rulemaking in the Department's July 1996 regulatory agenda.

The full text of the Proposed Repealer begins on the next page:

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NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER g: PLANNING AND PROGRAMMING
PART 600
EMPLOYEE COMMUTE OPTIONS (REPEALED)

SUBPART A: GENERAL

Section
600.10 Purpose
600.20 Definitions
600.30 Interpretive Rulings

SUBPART B: REGISTRATION AND SURVEYS

Section
600.40 Completion and Submission of Registration
600.50 Completion and Submission of APO Survey
600.60 Maintenance Plans
600.70 Renewal APO Surveys

SUBPART C: COMPLIANCE PLANS

Section
600.80 Completion and Submission of Compliance Plans
600.90 Combined and Joint Compliance Plans and APO Surveys
600.100 Compliance Plan Review, Approval and Disapproval
600.110 Committee Review of Disapproved Plans
600.120 Renewal Compliance Plans
600.130 Recordkeeping and Monitoring

AUTHORITY: Implementing and authorized by the Employee Commute Options Act (P.A. 87-1275, effective March 3, 1993) [625 ILCS 32].

SOURCE: Adopted at 18 Ill. Reg. 540, effective January 4, 1994; repealed at 20 Ill. Reg. _____, effective _____.

SUBPART A: General

Section 600.10 Purpose

The rules in this Part establish an employee commute options program within the Department of Transportation to comply with the mandate in Section 182(d)(1)(B) of the Clean Air Act Amendments of 1990 (now codified at 42 USC 7511a(d)(1)(B)).

Section 600.20 Definitions

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As used in this Part, the words and terms listed shall have the meanings ascribed to them as follows:

"The Act" means P.A. 87-1275, effective March 3, 1993 [625 ILCS 32].

"Affected Area" means the area designated pursuant to the clean Air Act as a severe nonattainment area for ozone consisting of the counties of Cook, Lake, DuPage, McHenry, Will and Kane and the townships of Auxsable and Goose Lake in Grundy County and Oswego in Kendall County (Section 10 of the Act).

"Affected Employer" means an employer that, at a single worksite within the affected area, employs 100 or more employees who report to the worksite (Section 10 of the Act).

"Affiliated entity" means an affected employer that, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another affected employer.

"Alternative means of commuting" means transportation demand management *strategies, including, but not limited to, vanpooling,* buspooling, bicycling, *ridesharing, use of public transportation, telecommuting, flex-time, staggered work hours,* walking, *compressed work weeks, and the use of clean fuel vehicles for affected employers* (Section 10 the Act).

"Average Passenger Occupancy" or *"APO" means the figure derived by dividing the number of employees arriving at the worksite during the peak travel period by the number of vehicles driven by* or allocated to *an employee* at a *worksite within the affected area during the peak travel period as computed from completed employee surveys* (see Section 600.50) (Section 10 of the Act).

"Average Vehicle Occupancy" or *"AVO" means the average vehicle occupancy of vehicles within the affected area during the peak travel period, as calculated by a statistically significant and geographically representative visual* or *other sampling of all such vehicular traffic and occupancy* (see Section 600.50) (Section 10 of the Act).

"Buspool" means a bus service, usually administered by employers or employees, and typically involving limited pickup and destination stops, guaranteed seats, and advance reservation and ticket issuance. A "buspool" is sometimes referred to as a subscription bus, club bus or a charter.

"Carpool" means a group of 2 or more persons commuting to and from

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work in a vehicle who would not be considered a vanpool.

"Clean Air Act" means the federal clean air act, as amended by P.L. 101-549 (42 U.S.C. sec. 7401 et seq.) *and as subsequently amended* or *supplemented* (Section 10 of the Act).

"Clean Fuel Vehicle" means a vehicle capable of operating on clean fuels as defined in the Clean Air Act, including liquid petroleum gas, methanol (M-85) compressed natural gas, ethanol (E-85), or electricity, or other vehicles that have been certified by the Department as clean fuel vehicles and are listed in program guidance (Section 10 of the Act).

"Complex" means an assemblage of buildings that together form a single comprehensive group.

"Compressed work week" means a work schedule which reduces the number of days an employee is required to travel to a worksite and includes but is not limited to 4 10-hour work days per week, 3 12-hour work days per week or 8 9-hour work days and 1 8-hour work day in a 2 week period.

"Department" means the Illinois Department of Transportation (Section 10 of the Act).

"Development" means contiguous real property, buildings and improvements owned, constructed, managed or operated by a single developer.

"Employee" means an individual (1) for whom an employer is required to withhold federal and State income taxes; (2) who is assigned primarily (80 hours per 28 day period excluding Saturdays and Sundays) *to a worksite; (3) who works for an employer in excess of 17.5 hours per week, exclusive of Saturdays, Sundays, and federal and State holidays, on an average annual basis; and (4) whose employment responsibility does not require driving to a worksite.* This last criterion includes only persons who cannot perform their assigned duties unless they drive alone to their worksites each time they report to their worksites (Section 10 of the Act).

"Employee Commute Options Committee or ECO Committee" means three people appointed by the Secretary of the Department who are employed by the Department, *are not responsible for the day to day operation of the employee commute options program,* and work at *the level of deputy director or district engineer or above* (Section 40 of the Act).

"Employer" means any person, partnership, association, corporation, trust, legal representative or any organized group of persons that

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hires or employs individuals. The term "Employer" shall also include all public and quasi-public entities, including, without limitation, the United States and any of its governmental instrumentalities, the State of Illinois and its instrumentalities and subdivisions, and all State and multi-State authorities, corporations, commissions, boards and like bodies (Section 10 of the Act).

"Immediately surrounding area" means contiguous real property separated only by public roadways or watercourses.

"Parent entity" means an employer that owns or controls another employer.

"Peak Travel Period" means the hours between 6:00 a.m. and 10:00 a.m., *Monday through Friday, exclusive of all federal and State holidays* (Section 10 of the Act).

"Program Guidance" means written materials prepared by the Department which explain the forms and this Part and assist affected employers in completing registrations, surveys and compliance plans. Program guidance will include the values which the Department will assign to alternative means of commuting and other measures which affected employers will use in their compliance plans.

"Public transit" means transportation by bus, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis.

"Subsidiary" means an employer that is owned or controlled by another employer.

"Telecommuting" means an employee working at the employee's residence or at a satellite work station such that the employee makes a total or partial substitution for a commute trip to a worksite.

"Transportation Management Association" means a nonprofit organization that coordinates transportation demand management *strategies, including but not limited to, vanpooling, ridesharing, use of public transportation, telecommuting, flex-time, staggered work hours, compressed work weeks, and the use of clean fuel vehicles for employers, corporations, developers, individuals, or other groups* joined together by a written agreement whose purpose includes addressing transportation needs and concerns (Section 10 of the Act).

"Vanpool" means 7 or more persons commuting on a regular basis to and from a worksite by means of a vehicle designed to carry not more than 15 adult passengers (Section 10 of the Act).

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"Vehicle" means an automobile or motorcycle powered by an internal combustion engine with fewer than 9 seating positions for adults (Section 10 of the Act).

"Vehicle Reduction Value" means a predefined value associated with a particular alternative means of commuting that accounts for a specific reduction in weekly vehicle trips to an affected employer's worksite.

"Worksite" means a building or portion of a building *or group of buildings located within the affected area that is in actual physical contact or separated only by a private or public roadway or other private or public right-of-way, and that is owned, operated, or leased by the same employer or by employers under common control* (Section 10 of the Act).

Section 600.30 Interpretive Rulings

a) Any employer or representative of an employer may request an interpretive ruling from the Department on the meaning and application of terms used in this Part. The Department's rulings will be consistent with the meaning and purpose of the Act and this Part.

b) Interpretive rulings will be issued within 10 working days of receipt of a written request which includes the following:
   1) the name of the affected employer or group of affected employers,
   2) enough relevant facts to make the Department's ruling specific and not merely advisory, and
   3) legible copies of all other documents referenced in the request.

c) Interpretive rulings may be relied upon as controlling the Department's actions concerning the affected employer(s) for whom the interpretation is requested, but these rulings will not be binding on the ECO Committee.

d) Whenever an interpretive ruling results in a finding that an employer is an affected employer or that an affected employer is required to file a compliance plan, a petition for review may be filed with the ECO Committee pursuant to the proceedings in Section 600.110.

e) Interpretive rulings will be open to public inspection but the identity of the affected employer or representative requesting the interpretive ruling will remain confidential.

f) Interpretive rulings will address issues including, but not limited to, whether a given category of employee should be counted as an employee for purposes of this Part, or whether an affected employer's work location qualifies as one or more worksites for purposes of this Part.

SUBPART B: REGISTRATION AND SURVEYS

Section 600.40 Completion and Submission of Registration

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The Department shall mail a registration form, APO survey form, compliance plan form and program guidance *to each employer* in the affected area with 100 or more employees (Section 20(b) of the Act). *Within 30 days* after *receipt of a registration form from the Department, each employer shall* complete and *return the registration form* with the following information.

a) Name and address of the employer.

b) Number and addresses of worksites in the affected area where 100 or more employees report to work.

c) Number of employees at each worksite listed above.

d) *Designation of the person responsible* for completing the registration form for each worksite and any additional APO surveys, compliance plans or other correspondence required under this Part (Section 20(c) of the Act).

e) Certification that all of the information provided is true and correct.

f) The registration form and all other correspondence shall be returned to the address listed in program guidance.

Section 600.50 Completion and Submission of APO Survey

a) *Within 90 days* after *receipt of* the registration form described in Section 600.40, *each affected employer shall complete an APO survey on forms provided by the Department* for each worksite in the affected area where 100 or more employees report to work and submit the survey(s) to the Department (see Section 600.40 for address)(Section 20(d) of the Act).

b) APO surveys of individual employees shall be taken over a consecutive five day period which begins on a Monday and does not include a holiday.

c) Valid APO surveys must include responses from at least 75% of all the employees who were not excused from reporting to the worksite during the survey period. Employees who do not respond or who respond in an incomplete fashion shall be counted as one person arriving at the worksite in one vehicle. If the response rate is 90% or greater, the surveyed ratio will be considered for all employees.

d) Valid APO surveys must include the following tabulated information:
   1) The number of employees reporting to the worksite during the peak travel period, the number of employees on vacation or sick leave, the number of employees having a scheduled day off due to an alternative work schedule, and the number of employees working at home or reporting to an alternative worksite.
   2) The number of employees using each mode of travel in the longest portion of their commute to the worksite (measured in time or distance) during the peak travel period including the use of single occupancy vehicles and alternative means of commuting.
   3) The APO as calculated according to the following standards based on the mode or method that each employee uses to reach the worksite on each day of the APO survey:

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A) An employee who reports to the worksite alone in a vehicle not considered a clean fuel vehicle shall be counted as one person reporting to the worksite in one vehicle.

B) An employee who reports in a carpool or vanpool shall be counted as reporting to the worksite in a fraction of a vehicle proportionate to the number of people sharing a ride to their worksite.

C) An employee who reports by public transit or buspool shall be counted as one person reporting to the worksite in zero vehicles.

D) An employee telecommuting who works at his or her residence shall be counted as one person reporting to the worksite in zero vehicles for that day.

E) An employee working full-time on a compressed work schedule shall be counted as one person reporting to the worksite on their compressed weekday off in zero vehicles unless that compressed work schedule encompasses more than one week in which case the appropriate portion of a vehicle will be counted.

F) An employee who reports to the worksite by walking or riding a nonmotorized bicycle from their residence shall be counted as one person reporting to the worksite in zero vehicles for that day.

G) An employee who reports to the worksite in a clean fuel vehicle shall be counted as one person arriving at the worksite in a *fraction of a vehicle. That fraction shall be determined* in program guidance *by dividing the emission level capability of the clean fuel vehicle by the emission level of conventionally fueled vehicles* (Section 10 of the Act).

H) An employee who reports to the worksite in a vehicle that is continuing to or arriving at another worksite shall be counted as one person reporting to the worksite in a fraction of a vehicle proportionate to the number of people sharing a ride to their worksites.

Section 600.60 Maintenance Plans

a) *Each affected employer whose APO survey shows an APO which is 125% of the AVO or greater shall describe the transportation demand management strategies that the affected employer* has utilized and *will* continue to *utilize in maintaining an APO at least 125% of the AVO* (Section 20(d) of the Act).

b) The description of transportation demand management strategies shall be submitted to the Department within 90 days of receipt of the registration form described in Section 600.40 along with the APO survey.

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Section 600.70 Renewal APO Surveys

a) *Each affected employer shall complete and submit* a renewal *APO survey within two years of the affected employer's initial survey submittal and every two years thereafter* (Section 45(a) of the Act). Data collected by each affected employer to use in a renewal survey must have been obtained within 90 days of receipt of a renewal notice from the Department.

b) Renewal APO surveys shall be prepared in accordance with the requirements in Section 600.50.

c) If a renewal survey shows or continues to show an APO which is 125% of the AVO or greater, the affected employer shall file a maintenance plan which complies with the standards in Section 600.60.

SUBPART C: COMPLIANCE PLANS

Section 600.80 Completion and Submission of Compliance Plans

a) *Any affected employer whose APO is less than 125% of the AVO and who has more than 33 employees reporting to a worksite during the peak travel period,* other than the affected employers described in subsection (b) of this Section, *shall submit a compliance plan on forms provided by the Department within 150 days of the date the APO survey was submitted to the Department* (Section 20(e) of the Act).

b) *An affected employer who has more than 33 employees reporting to a worksite during the peak travel period and whose APO is less than 125% of the AVO is not required to file a compliance plan or renewal compliance plan is that affected employer has a non-standard work schedule wherein the employer has 4 or more reporting periods during a 24 hour period and 33 or fewer employees typically report for work at a worksite during each of the 4 one hour periods comprising the peak travel period and the non-standard work schedule is a common practice of the affected employer or is the common practice in the affected employer's trade or business* (Section 20(f) of the Act). In order to show that a non-standard work schedule is a common practice of the affected employer, the employer must certify with records for at least calendar years 1988-1991 that a non-standard work schedule was in place and used including 4 or more reporting periods per 24 hour period and the number of employees reporting during each of the hours in the peak travel period. In order to show that a non-standard work schedule is a common practice in the affected employer's trade or business, at work sites the affected employer did not operate in calendar years 1988-1991, the employer must produce trade association data which can be verified by contacting and interviewing the association representative who prepared the data. The burden to show that a non-standard work schedule is a common practice shall rest with the affected employer.

c) A compliance plan shall contain the following information:

1) The name and address of the worksite(s) covered by the plan.

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2) A certification indicating management commitment to the compliance plan signed by the affected employer's chief executive officer, or the highest ranking official for the worksite.
3) Documentation of the number of employees employed at each worksite using forms prescribed by the Department.
4) A calculation of the worksite APO using the results of the survey required under Section 20 of the Act.
5) Alternative means of commuting strategies which *convincingly demonstrate that an affected employer is reasonably likely to achieve an APO of* at least 125% *of the AVO within 2 years* or by July, 1998, *whichever is later* (Section 30 of the Act).

d) Each affected employer will receive program guidance to follow in establishing its compliance plan. This guidance will consist of an ECO Plan Packet to be provided to each employer, which identifies the vehicle reduction value that the Department will accept for each incentive or incentive package. After completion of the APO survey and calculation of the required weekly vehicle reduction, affected employers may choose options from the packet that add up to the required weekly vehicle reduction. If an employer submits a plan using the values from their packet and all other program requirements are met, the plan will be approved by the Department and used by the affected employer until the completion of the renewal APO survey as required in Section 600.70. The actual values assigned in the ECO Plan Packet at a minimum, will reflect the employer size, the accessibility to existing transit, the implementation of traditional single occupancy vehicle reduction measures, and the establishment of educational and marketing related measures by the individual employer. The strategies and the associated values will be designed so all affected employers can effectively develop and implement a compliance plan. The intent of this guidance is to provide an efficient way for affected employers to comply with this Part, to limit the cost necessary to implement this Part, and to enhance the ability of the Department to obtain approval of the Employee Commute Options Program by the United States Environmental Protection Agency.

e) An affected employer may choose not to use the incentives in the ECO Plan Packet provided by the Department. In which case, the affected employer must design, analyze and document his/her own application of incentives and corresponding vehicle reduction values. The design, analysis, documentation and vehicle reduction values must be approved by the Department prior to submittal of the compliance plan. The Department will look at the same general factors it used to develop values when it reviews these submittals, taking into consideration the particular circumstances of each affected employer who chooses to follow this procedure.

Section 600.90 Combined and Joint Compliance Plans and APO Surveys

a) An affected employer may calculate a combined APO from *two or more worksites* it operates or in combination with worksites which are

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operated by *its parent entity* or by an *affiliated entity or subsidiary* as long as a separate survey form is submitted for each worksite containing the data and calculations required by Section 600.50 (Section 30(b) of the Act). The term "worksite" as used in this subsection refers only to locations where 100 or more employees report to work.

b) An affected employer who calculates APO according to a combination allowed under subsection (a) of this Section may submit a combined compliance plan designed to achieve an overall APO of 125% of the AVO for all of the worksites covered by the combined APO as long as the information required by Section 600.80 is provided for each worksite.

c) *An affected employer may* enter into a joint *compliance plan with other affected employers located in an immediately surrounding area, development or complex* or through *a transportation management association* as long as the plan includes the information required by Section 600.80 for each worksite and each employer achieves an APO of at least 125% of the AVO (Section 30(c) of the Act).

Section 600.100 Compliance Plan Review, Approval and Disapproval

a) *The Department shall notify the employer within 90 days after the submittal of a compliance plan of its decision to approve the compliance plan as submitted, to conditionally approve the compliance plan if the affected employer modifies the compliance plan within 30 days according to recommendations made by the Department, to disapprove the compliance plan and require the submittal of another compliance plan, or to extend its review of the compliance plan beyond 90 days. If the Department extends its compliance plan review period beyond 90 days, the employer's compliance plan shall be considered approved until the Department notifies the employer of its decision* (Section 35(a) of the Act).

b) *The Department's standard for granting approval or conditional approval of an affected employer's compliance plan shall be that the compliance plan includes sufficient and appropriate alternative means of commuting strategies so that* the plan convincingly demonstrates that it *is reasonably likely that the affected employer will achieve an APO of 125% of the AVO by July, 1998 or two years after* submission of the compliance plan, whichever is later (Section 35(b) of the Act).

c) *When the Department disapproves an affected employer's compliance plan, another compliance plan shall be submitted within 60 days. If the Department's review of the second compliance plan does not result in approval or conditional approval, the affected employer shall implement the alternative means of commuting strategies prescribed by the Department in response to the second submittal, unless the employer petitions* under Section 600.110. *The Department shall provide detailed reasons for all disapprovals and conditional approvals in writing to the employer* (Section 35(c) of the Act).

d) *During the pendency of a petition* under Section 600.110 *and appeal*

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under the Administrative Review Law, *the affected employer shall continue to implement the second compliance plan as submitted* (Section 40 of the Act).

Section 600.110 Committee Review of Disapproved Plans

a) *After an affected employer's compliance plan is disapproved for the second time, the affected employer may, within 35 days after receipt of written* disapproval submit a written *petition for review* (Section 40 of the Act) with the Chairperson of the Employee Commute Options Committee (ECO Committee). The Chairperson shall be designated by the Secretary of the Department.
b) A petition for review shall state the reasons why an affected employer believes its compliance plan should have been approved. A petition for review shall not contain any new information which has not already been submitted to the Department.
c) The ECO Committee shall meet whenever it is presented with a petition for review which is ready for consideration. ECO Committee meetings may be conducted in one location or by teleconference.
d) The ECO Committee shall review the entire record of materials submitted by the affected employer and the response from the Department. The ECO Committee shall not review any internal Department memos or worksheets which were not given to the affected employer.
e) If the Department chooses to file a written response to the affected employer's petition for review, it shall do so within 10 working days of the date it receives a copy of the petition. The affected employer may reply to the Department's response within 10 working days of the date it receives a copy of the response.
f) The ECO Committee shall allow oral argument at its meetings subject to reasonable limitations and shall deliberate in the presence of the Department and the affected employer and may ask questions to aid in its deliberations.
g) The ECO Committee may affirm or reverse the Department's second disapproval or remand the matter for further analysis. On remand, the Department and the affected employer will provide the additional analysis and present their findings to the ECO Committee.
h) The ECO Committee's final decision to affirm or reverse the second disapproval shall be the Department's final administrative decision for purposes of the *administrative review law* (Section 40 of the Act).

Section 600.120 Renewal Compliance Plans

a) *Each affected employer* required to submit a compliance plan based on the information in its renewal APO survey *shall submit a renewal compliance plan no later than* July, 1998 *or no later than two years after submission of its initial compliance plan, whichever is later, and every 2 years thereafter, if, as of that date, the affected employer employs more than 33 employees who report to the worksite during the peak travel period and has not achieved an APO of 125% of the AVO* (Section 50(a) of the Act).
b) Renewal compliance plans shall comply with the requirements of Section 600.80 and shall be reviewed according to the requirements in Sections 600.100 and 600.110.

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Section 600.130 Recordkeeping and Monitoring

Affected employers shall maintain records relating to development of surveys and compliance plans and records of information relevant to the development and implementation of alternative means of commuting strategies in approved compliance plans for three years. The Department may inspect, verify, and audit an affected employer's compliance plan records and monitor activities related to an affected employer's alternative means of commuting strategies upon reasonable notice during regular business hours (Section 70 of the Act).

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Community Care Program

2) Code Citation: 89 Ill. Adm. Code 240

3) Section Numbers: Adopted Action:
240.810 Amendment

4) Statutory Authority: 20 ILCS 105/4.01 (11) and 5.02

5) Effective Date of Amendment(s): August 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) Date Filed in Agency's Principal Office: July 26, 1996

9) Notice of Proposal Published in Illinois Register: April 5, 1996; 20 Ill. Reg. 5104

10) Has JCAR issued a Statement of Objections to this amendment(s)? No

11) Difference(s) between proposal and final version: The following reflects the substantive changes.

Subsection a), "abandoned" spouse is included as an additional category.

Subsection a) under EXCEPTION, provides specific information on asset disregard and spousal impoverishment spend down provisions.

Subsection d), is deleted in its entirety.

Subsection e), is changed to subsection d).

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? Yes

14) Are there any proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
240.230	Amendment	May 17, 1996 (20 Ill. Reg. 6613)
240.870	Amendment	May 17, 1996 (20 Ill. Reg. 6613)
240.1940	Amendment	May 17, 1996 (20 Ill. Reg. 6613)
240.1950	Amendment	May 17, 1996 (20 Ill. Reg. 6613)

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendment(s): Public Act 87-470, effective September 15, 1991, mandated the Illinois Department on Aging to apply the Illinois Department of Public Aid's (IDPA) spousal impoverishment provisions to the Community Care Program (CCP). Effective July 1, 1995, the Department released program instruction memoranda implementing the prevention of spousal impoverishment provisions. As the Department proceeded to implement these instructions, several problematic issues were discovered. Specific issues revealed that certain CCP clients and applicants had no alternative but to enter a nursing home if they were not eligible for CCP services under the prevention of spousal impoverishment guidelines. Such decisions are contrary to the Department's mandate to prevent or delay institutionalization of Illinois' elderly population.

The elimination of certain CCP criteria to meet the prevention of spousal impoverishment provisions will protect the health, safety and welfare of both applicants/clients and their families. In addition, this will also allow lower cost community and home based services to meet their needs, rather than compelling them to be otherwise inappropriately institutionalized.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, IL 62701-1789
(217) 785-3346

The full text of the Adopted Amendment(s) begins on the next page:

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240
COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

SUBPART B: SERVICE DEFINITIONS

SUBPART C: RIGHTS AND RESPONSIBILITIES

SUBPART D: APPEALS

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SUBPART E: APPLICATION

SUBPART F: ELIGIBILITY

SUBPART G: NON-FINANCIAL REQUIREMENTS

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SUBPART P: PROVIDER PROCUREMENT

Section

SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

Section

SUBPART R: ADVISORY COMMITTEE

Section

SUBPART S: RATES

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

Section

SUBPART T: FINANCIAL REPORTING

Section

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(1)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendments at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendments at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendments suspended at 16 Ill. Reg. 1744; emergency amendments modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendments at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendments at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendments at 16 Ill. Reg. 4069, effective February 28, 1992, to

expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendments at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective AUG 0 1 1996.

SUBPART H: FINANCIAL REQUIREMENTS

Section 240.810 Assets

a) To be eligible to receive Community Care Program (CCP) services, an applicant/client shall not own interest in non-exempt assets having a combined value in excess of $10,000, if:
   1) unmarried; or
   2) married and: ~~spouse is receiving CCP services:~~
      A) spouse is receiving CCP services; or
      B) spouse is in a nursing home; or
      C) spouse does not reside on a permanent basis with and does not receive support from or give support to the applicant/client; or
      D) spouse is abandoned; or
      E) spouse is potentially abusing the applicant/client.

   EXCEPTION: An applicant/client, who is married and the spouse does not receive CCP services, shall not own interest in non-exempt assets having a total value in excess of the asset disregard amount allowed by the Illinois Department of Public Aid for Medicaid which is currently $2,000 + $1,500 in a pre-paid burial plan or life insurance policy + burial merchandise. Non-exempt assets having value over the asset disregard amount described above and up to the amount allowed by the Community Spouse Asset Allowance, as adopted by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d), must be transferred to or for the sole benefit of the community spouse. If the couple owns assets that exceed the asset disregard and prevention of spousal impoverishment amounts allowed by statute, the excess (up

to $8,000 of non-exempt assets after transfer; and/or up to $1,800 of countable monthly income after diversion) shall be designated as a spend down, to be spent before Medicaid enrollment is established. ~~eligibility.~~

b) The value of non-exempt assets shall be considered in determining eligibility for the Community Care Program.

c) All assets not specifically exempt are non-exempt.

~~d) In order for the applicant/client to be eligible in accordance with the EXEMPTION under subsection (a) above, the allowable non-exempt assets, valued in excess of the Medicaid eligibility limit, must be transferred to or for the sole benefit of the community spouse, but the amount of non-exempt assets transferred to the community spouse cannot result in the community spouse's non-exempt assets exceeding the Community Spouse Asset Allowance as adopted by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d).~~

de) When a client's non-exempt assets are greater than the allowable disregard as specified in subsection (a) above, consideration of non-liquid assets may be deferred as follows:
   1) real property may be deferred from consideration for six 6 months;
   2) the client shall sign an agreement to dispose of the real property in excess of the allowable disregard within six 6 months from the date of the agreement; and
   3) the six 6 month period for disposition may be extended an additional six 6 months if the client fails to dispose of the asset (through no fault of his/her own) despite reasonable and diligent effort.

(Source: Amended at 20 Ill. Reg. 10597, effective AUG 0 1 1996)

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1) Heading of the Part: Rules of Practice

2) Code Citation: 83 Ill. Adm. Code 200

3)

Section Numbers:	Adopted Action:
200.60	Amendment
200.70	Amendment
200.150	Amendment
200.190	Amendment
200.200	Amendment
200.220	New Section
200.300	Amendment
200.310	New Section
200.335	Amendment
200.370	Amendment
200.410	Amendment
200.520	Amendment
200.525	New Section
200.530	Amendment
200.605	New Section
200.615	New Section
200.640	Amendment
200.800	Amendment
200.820	Amendment
200.830	Amendment
200.850	Amendment
200.880	Amendment
200.890	Amendment

4) Statutory Authority: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Sec-tion 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Com-mercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], and Section 10 of the Electric Supplier Act [220 ILCS 30/10].

5) Effective Date of Amendments: August 15, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: July 17, 1996

9) Notice of Proposal Published in Illinois Register: August 4, 1995, at 19 Ill. Reg. 11236.

10) Has JCAR issued a Statement of Objections to these amendments? No

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11) Difference(s) between proposal and final version:

Section 200.70(a)(1): added "If transmitted by a private express courier service, shall be deemed filed with or received by the Commission upon delivery to the courier service;"

Section 200.70(a)(2): added " or deposited with a private express courier service".

Sections 200.70 and 200.150: all references to "courier service" modified to "private express courier service".

Section 200.220(j): Added "by the Commission" to the last sentence.

Section 200.220(l)(2): Deleted the last sentence of subsection.

Section 200.525(a): added "that are verified or supported by affidavit".

Section 200.640(a)(2): subsection is no longer being amended.

Section 200.800: subsections (c) and (d) added.

Section 200.850(c): originally proposed material deleted and new language is adopted.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking will revise the Commission's rules of practice in line with recommendations from a Commission-appointed task force consisting of representatives of the Commission staff, utilities, consumer groups, industrial utility customers and government. The topics covered include filing requirements, service requirements, prehearing and hearing procedures, and post-hearing procedures.

16) Information and questions regarding these adopted amendments shall be directed to:

Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Springfield, IL 62794-9280
(217) 785-8439

The full text of the Adopted Amendments begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF UTILITY

PART 200
RULES OF PRACTICE

SUBPART A: GENERAL PROVISIONS

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

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SUBPART D: HEARING PROCEDURE

SUBPART E: POST-HEARING PROCEDURE

AUTHORITY: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], and Section 10 of the Electric Supplier Act [220 ILCS 30/10].

SOURCE: Filed and effective January 15, 1960; codified at 8 Ill. Reg. 18459; old rules repealed and new Part adopted at 9 Ill. Reg. 5627, effective April 15, 1985; emergency amendments at 10 Ill. Reg. 1277, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 10481, effective May 30, 1986; amended at 18 Ill. Reg. 7748, effective May 15, 1994; amended at 20 Ill. Reg. 10607, effective AUG 15 1996.

SUBPART A: GENERAL PROVISIONS

Section 200.60 Open Meetings

a) The Commission shall comply with the provisions of the Open Meetings Act [5 ILCS 120] ~~[Ill. Rev. Stat. 1983, ch. 102, par. 41 et seq.]~~.

b) Emergency meetings may be called by the Chairman or a majority of the Commission. Nothing in this Part shall prohibit the Commission from conducting meetings partially or wholly by means of telecommunications.

c) The agenda for each regular meeting shall be posted at the Commission's principal office in Springfield, in an area easily accessible to the public, at the earliest practicable date but in no event less than ~~48~~ 24 hours prior to the scheduled meeting. Whenever practicable, similar posting of the agenda shall be made in the Commission's offices in Chicago. A supplemental agenda of matters added subsequent to the initial agenda shall be posted when practicable. Agendas for regular meetings are for information only. Inclusion of an item on the agenda shall not require the Commission to consider it, and absence of an item from the agenda shall not preclude the Commission from considering or acting upon it. Notices and agendas may be obtained from the Chief Clerk's office in Springfield

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and Chicago.

d) Participation in meetings is limited to Commissioners, Hearing Examiners, and Commission staff other than staff witnesses. Others may participate in Commission meetings on invitation of the Commission except where precluded by Section 200.710. The Commission shall take those actions necessary to permit its deliberations to be conducted in an orderly manner.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.70 Communications to the Commission

a) All formal written communications and documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706. Petitions, complaints and other filings that initiate a proceeding or petitions for interlocutory review shall be ~~All format communications and documents are~~ deemed to be officially filed or submitted only when received ~~delivered~~ at the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records. Unless the Public Utilities Act or other applicable statute specifically provides otherwise, or the Hearing Examiner specifically provides otherwise in the interest of a fair hearing, all other formal written communications and documents shall be deemed officially filed or submitted either when received at the principal office of the Commission or:

1) if transmitted through the United States mail, shall be deemed filed with or received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper containing it. If transmitted by a private express courier service, shall be deemed filed with or received by the Commission upon delivery to the courier service;

2) if mailed or deposited with a private express courier service but not received by the Commission or if received but without a cancellation mark or with the cancellation mark illegible or erroneous, shall be deemed filed with or received by the Commission on the date it was sent or deposited, provided a Proof of Filing by certificate of attorney, acknowledgment of receipt, or affidavit is provided to the Commission showing that the writing was deposited, properly addressed, in the United States mail or with a private express courier service on or before the date on which it was required or authorized to be filed. In cases in which the writing was mailed or deposited with a private express courier service but not received, the sender must also file with the Commission a duplicate writing, within 10 days after notification is given to the person claiming to have sent the writing, of nonreceipt of the writing;

3) if a writing is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the writing was mailed. The date of registration, certification or certificate shall be deemed the postmarked date.

b) In an emergency, upon affidavit specifying the emergency and affirming that no person will be prejudiced, the Chief Clerk or his/her designated representative shall authorize filing in the Chicago office of the Commission.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

Section 200.150 Service

a) Formal complaints will be served by the Commission only.

b) Petitions, applications, answers, intervening petitions, supplemental complaints and petitions, amendments to pleadings, written motions, responses, replies, notices, suggested findings of fact and conclusions of law, exceptions to Hearing Examiners' proposed orders, briefs, drafts or suggested forms of order, applications for further hearing, petitions for rehearing, and similar documents shall be filed with the Chief Clerk of the Commission and shall be served by the person filing same upon all parties to the proceeding and upon Staff ~~staff--witnesses~~ and the Hearing Examiner, if any, and, when filed, shall be accompanied by proof of service upon all parties. In addition, any person filing a petition under Section 8-406 of the Public Utilities Act [220 ILCS 5/8-406] ~~(111--Rev--Stat--1985,--ch--111 2/3,--par--8-406)~~ for a certificate of public convenience and necessity to serve as a water or sewer public utility shall serve a copy of the petition on each municipality which is located partly or wholly within the area proposed to be certificated, or whose corporate boundary lies within 1 1/2 miles of such area.

c) Except as otherwise provided in this Subpart or by the Commission or the Hearing Examiner, service Service shall be made by delivering in person or by depositing in the United States mail, properly addressed with first class postage prepaid, or by depositing with a private express courier service, properly addressed with charges prepaid or payment arrangements made, one copy to each person entitled thereto. Service by mail is effective upon mailing; service by a private express courier service is effective upon delivery to the private express courier service. Service of petitions for interlocutory review shall be effective upon receipt by the party served. When staff witnesses or any party or parties have appeared by an attorney, service upon the attorney shall be deemed service upon such persons.

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Notices under the ICTL shall be served as provided in Sections 18c-1801 and 18c-1802 of that statute [625 ILCS 5/18c-1801 and 18c-1802] ~~(111. Rev. Stat. 1985, ch. 95 1/2, par. 18c-1801 and 18c-1802)~~. Service is effective on a public utility, telecommunications carrier, carrier under the ICTL or other entity regulated by the Commission, if mailed to the last address on file with the Commission. Except as otherwise provided by the Commission or the Hearing Examiner, whenever Staff or a party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon Staff or the party, and the notice or other document is served upon Staff or the party by mail, four days shall be added to the prescribed period.

d) Proof of service of any paper shall be by certificate of attorney, acknowledgement of receipt, or affidavit, except that proof of service on the Commission is made pursuant to Section 200.70.

e) In any proceeding involving more than four parties, the Chief Clerk shall prepare and disseminate to all parties a service list showing the name and address of each person entitled to service. Parties shall be required to update their service lists to insure the inclusion of all parties during the course of the proceeding. Updated service lists may be obtained from the Chief Clerk's office.

f) In any application, petition, or complaint that initiates a "Contested Case" or a "Living Proceeding" as defined in Section 200.40, the applicant, petitioner or complainant shall provide, at the time of filing a petition, application or complaint, notice in a form prescribed by the Commission. *The notice shall provide:*

1) *A statement of the legal authority and jurisdiction under which the hearing is to be held;*
2) *A reference to the section of the statute or rule involved;*
3) *A plain and concise statement of the matters asserted; and*
4) *A space for the time and location of a hearing scheduled in the proceeding.* [5 ILCS 100/10-25(a)] ~~(111. Rev. Stat. 1985, ch. 127, par. 1018(a))~~
5) A copy of the complaint, in proceedings initiated under Section 10-108 of the Public Utilities Act [220 ILCS 5/10-108] ~~(111. Rev. Stat. 1985, ch. 111 2/3, par. 10-108)~~.

g) The Commission shall serve the notice provided by subsection (f) by personal delivery or registered or certified mail. Notice of any additional hearings or notices mailed by the Commission shall be by regular United States mail or as otherwise provided by the Hearing Examiner.

h) A person filing an application under Section 8-406 of the Public Utilities Act, as amended, for a Certificate of Public Convenience and Necessity to construct facilities upon or across privately owned tracts of land, or filing under Section 8-503 of that Act [220 ILCS 5/8-503] ~~(111. Rev. Stat. 1985, ch. 111 2/3, par. 8-503)~~, shall attach to such application when filed with the Commission a list containing the name and address of each owner of record of such land as disclosed

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by the records of the tax collector of the county wherein such land is located, as of not more than thirty (30) days prior to the filing of such application. The Commission shall notify such owners of record of the time and place scheduled for the initial hearing upon such application. The foregoing provisions for notice to owners of record shall not be deemed jurisdictional and the omission of the name and address of an owner of record from such list or lack of notice shall in no way invalidate a subsequent order of the Commission relating to said application.

i) Where a person files an application under Section 8-503 or 8-406 of the Public Utilities Act, the requirements of Section 200.150(h) above shall apply only if such application requests a certificate of authority to construct particular facilities at specified locations and shall apply only with respect to such construction.

j) Where a person files an application under both Section 8-406 of the Public Utilities Act and under the Gas Storage Act [220 ILCS 15] ~~(111. Rev. Stat. 1985, ch. 96 1/2, par. 5501 et seq.)~~, the utility's compliance with the notice requirements of the Gas Storage Act will be deemed to be in compliance with the requirements set forth in Section 200.150(h) above.

k) Persons filing applications under the ICTL which are subject to the service and notice requirements of Section 18c-4201 of that Law [625 ILCS 5/18c-4201] ~~(111. Rev. Stat. 1985, ch. 95 1/2, par. 18c-4201)~~ shall comply with the requirements of that Section and the rules of the Commission issued thereunder.

l) Persons filing applications under the Illinois Commercial Relocation of Trespassing Vehicles Law who are subject to the service and notice requirement of Section 18a-400(c) of that Law [625 ILCS 5/18a-400(c)] ~~(111. Rev. Stat. 1985, ch. 95 1/2, par. 18a-400(c))~~, shall comply with the requirements of that Section and the rules of the Commission issued thereunder.

m) Persons subject to the Electric Supplier Act [220 ILCS 30] ~~(111. Rev. Stat. 1985, ch. 111 2/3, par. 401 et seq.)~~ shall comply with any and all service and notice requirements under that Act.

n) The Commission or the Hearing Examiner may require notice in addition to that set forth in this Section.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.190 Motions

a) Motions may be presented requesting a more sufficient pleading, a bill of particulars, the striking of irrelevant, immaterial, scurrilous or unethical matter, the addition of necessary parties, the dismissal of the proceeding for want of jurisdiction or want of prosecution, the quashing of a subpoena, the postponement of an effective date of an order, the extension of time for compliance with an order or such

other relief or order as may be appropriate.

b) Motions may be presented requesting the Hearing Examiner's direction concerning prehearing submissions and procedures as provided in Section 200.310 of this Part.

c) ~~b)~~ Motions, unless made during a hearing, shall be made in writing, shall set forth the relief or order sought and shall be filed and served as provided in Section 200.150(b), (c), and (d) of this Part. Motions based on matter which does not appear of record shall be supported by affidavit.

d) ~~c)~~ Relief pending disposition of a proceeding, including interim relief, may be requested by motion.

~~d) Upon receipt of a written motion, a Hearing Examiner shall set a schedule for the filing of responses and for the proponent of the motion to reply to any response filed.~~

e) Unless otherwise specified by the Hearing Examiner, responses to motions shall be filed and served within 14 days after service of the motion and replies to responses shall be filed and served within 7 days after service of the responses.

f) ~~e)~~ When the Commission grants a contested motion to dismiss a proceeding, in whole or in part, the Commission shall issue an order presenting its rationale for the grant.

(Source: Amended at 20 Ill. Reg. 10607, effective ~~AUG 15 1996~~ AUG 15 1996)

Section 200.200 Intervention

a) Petitions to intervene shall contain:
   1) The name, address and telephone number of the petitioner seeking leave to intervene;
   2) A plain and concise statement of the nature of such petitioner's interest;
   3) A prayer for leave to intervene and be treated as a party to the proceeding; and
   4) If affirmative relief is sought, specific prayers for such relief, which may be in the alternative.

b) While a petition for leave to intervene is pending, the Hearing Examiner, in his or her discretion, may permit the petitioner to participate in the proceeding.

c) Petitions to intervene shall be granted or denied by the Hearing Examiner, subject to Section 200.520.

d) In order to promote efficiency, the Hearing Examiner may require parties to state whether they will be active or not active in the proceeding. If a party fails to respond in the manner designated by the Hearing Examiner within 14 days, the party shall be deemed to be a non-active party. Active parties shall not be required to serve non-active parties with copies of testimony, data requests, pleadings and briefs. However, non-active parties shall be entitled to receive

notices and orders served by the Commission. A party may change its designation at any time in the proceeding by filing a notice with the Chief Clerk and serving all parties. If a non-active party has changed its status to active, upon receipt of the notice from the party, all other active parties shall serve that party with all subsequently filed testimony, pleadings and briefs. A party's change in status shall not serve as the basis for delay or a modification of the procedural schedule in the case.

e) ~~d)~~ Except for good cause shown, an intervenor shall accept the status of the record as the same exists at the time of the beginning of that person's intervention. Subject to Section 200.850, any intervenor shall be allowed to comment in briefs and oral arguments on any matter addressed in the proceeding, whether before or after his intervention; and such intervenor shall be bound by rulings and orders theretofore entered.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.220 Declaratory Rulings

a) When requested by the affected person, the Commission may in its sole discretion issue a declaratory ruling with respect to:
   1) the applicability of any statutory provision enforced by the Commission or of any Commission rule to the person(s) requesting a declaratory ruling; and
   2) whether the person's compliance with a federal rule will be accepted as compliance with a similar Commission rule.

b) A request for a declaratory ruling:
   1) shall be captioned as such and shall contain a complete statement of the facts and grounds prompting the request, including a full disclosure of the requester's interest; a clear, concise statement of the controversy or uncertainty that is the subject of the request; the requester's proposed resolution of that controversy or uncertainty; and citations to any statutes, rules, orders or other authorities involved; and
   2) may be filed by itself or in conjunction with a complaint, petition, application or other pleading seeking other relief.

c) The Commission may in its sole discretion direct that a request for a declaratory ruling be served on any person the Commission deems may be affected by the request.

d) The requester(s) shall make available for the Commission's use the originals, or, if so directed, certified or verified copies, of all books, papers, and documents that may be required. Failure to do so may be grounds for declining to issue a declaratory ruling.

e) Responses, if any, to a request for declaratory ruling shall:
   1) be filed with the Commission within 21 days after the date on which the request was filed with the Commission or within such

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other time as the Commission directs; and

2) be served upon the requester.

f) Replies to responses may be filed with the Commission within 14 days after service, or within such other time as the Commission directs.

g) All requests, responses and replies containing allegations of fact must be supported by affidavit or verified.

h) The Commission may in its sole discretion dispose of a request for a declaratory ruling solely on the basis of the written submissions filed before it.

i) Declaratory rulings shall not be appealable.

j) The Commission may, pursuant to Section 10-113 of the Public Utilities Act [220 ILCS 5/10-113] and after notice to the affected person, revoke or revise its declaratory ruling. However, a person whose request for a declaratory ruling has been granted by the Commission and who has relied in good faith on the declaratory ruling shall not thereafter be fined, sanctioned or otherwise penalized by the Commission as a result of such reliance.

k) The Commission shall maintain as a public record in its Springfield office and make available for public inspection and copying any declaratory rulings. The Commission shall delete trade secrets or other confidential information from the ruling before making it available for public inspection.

l) With regard to a request filed under subsection(a)(2) of this Section, if the Commission determines that compliance with the federal rule:

1) would not satisfy the purposes or relevant provisions of the State law involved, the Commission shall state the reasons for the determination in its declaratory ruling;

2) would satisfy the purposes and relevant provisions of the State law involved but would not satisfy the relevant provisions of the Commission rule involved, the Commission shall so inform the requester and the Joint Committee on Administrative Rules, and the Commission may initiate a rulemaking proceeding in accordance with Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] to consider revising its rule to accept compliance with the federal rule as compliance with the relevant provisions of the State law; and

3) would satisfy the purposes and relevant provisions of the State law and the Commission rule involved, the Commission shall state in its declaratory ruling that compliance with the federal rule constitutes compliance with the State rule and shall specify any necessary terms and conditions.

(Source: Added at 20 Ill. Reg. 10607, effective AUG 15 1996)

SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

Section 200.300 Prehearing Conferences

ILLINOIS COMMERCE COMMISSION

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a) The Hearing Examiner, on his or her own motion, upon motion by any party or staff witness, or when directed by the Commission, shall with reasonable written notice request all parties and staff witnesses to attend a prehearing conference when it appears that any of the goals set forth in subsections (a)(1) through (a)(7)~~(6)~~ of this Section can be attained. Such a conference shall be held for the purpose of formulating issues and considering:

1) Simplification of issues;

2) Amendments to the pleadings;

3) The development of docket-specific discovery schedules and procedures to facilitate the prompt and efficient resolution of the proceeding;

4)~~3~~ The possibility of obtaining admissions of fact and of the genuineness of documents which will avoid unnecessary proof;

5)~~4~~ Limitations on the number of witnesses;

6)~~5~~ The procedure at the hearing; and

7)~~6~~ Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

b) Except where the Illinois Administrative Procedure Act [5 ILCS 100] ~~(111. Rev. Stat. 1991, ch. 127, par. 1001 1 et seq.)~~ provides otherwise, the Hearing Examiner may on his or her own motion, on motion of any party or staff witness, or when directed by the Commission, with written notice to all parties and Staff ~~staff~~ witnesses, initiate an informal discussion whenever it appears that a mechanism less formal than a hearing might be useful in resolving any issue in a proceeding.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.310 Other Prehearing Submissions

The Hearing Examiner may at any time on his or her own initiative, or on motion of any party or Staff, consider the need for, and request as appropriate on a case by case basis:

a) prehearing briefs on specified issues;

b) prehearing oral presentations on specified issues; and/or

c) the submission of prehearing draft orders or statements outlining the issues in dispute and key facts, and identifying the applicable statutes, rules, orders, or other authorities.

(Source: Added at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.335 Application of Discovery Rules Contained in Sections 200.340 through 200.430

a) Except as otherwise specified in this Section, the provisions of

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Sections 200.340 through 200.430 of this Part shall apply fully to all proceedings before the Commission. In proceedings under the ICTL, subsection (b) of this Section shall control in the event of a conflict between this Section and the remaining Sections of this Subpart.

b) Special discovery provisions applicable to proceedings under Section 18c-2105 of the ICTL [625 ILCS 5/18c-2105] ~~(111. Rev. Stat. 1985, ch. 95 1/2, par. 18c-2105)~~.

1) *Discovery Generally. Any party may utilized written interrogatories, depositions, requests for discovery or inspection of documents or property and other discovery tools commonly utilized in civil actions in the circuit courts in the State of Illinois in the manner contemplated by the code of civil procedure and the rules of the Supreme Court of Illinois; except that discovery must be completed by the 30th day after the party filed its petition for leave to intervene, unless the period of discovery is extended by agreement of the parties or by the Commission. The Chairman or a hearing examiner may, at any time, on his own motion or at the request of a party, issue such rulings denying, limiting, conditioning, or regulating discovery as justice requires, and may supervise all or part of any discovery procedure. Parties to proceedings before the Commission are encouraged to clarify and resolve issues where possible through the use of pre-hearing discovery. However, discovery order should be calculated to lessen the time and expense required to reach an informed resolution of the issues.*

2) *Subpoenas. The Chairman or a hearing examiner may, for good cause, issue a subpoena directing a person to appear and testify, and to produce records, documents, or other papers, at a time and place set forth in the subpoena, in connection with a proceeding before the Commission. Service of the subpoena shall be in the same manner as a subpoena issued by a court. The Commission may, on its own motion or the motion of a person served with a subpoena, quash the subpoena, in whole or in part.*

3) *Appeal from discovery and subpoenas. A person served with a discovery request or subpoena may appeal such interlocutory matter to the Commission. Such appeals shall set forth grounds for seeking to quash or limit the scope of the discovery or subpoena, as well as the specific relief sought, and must be filed within 10 days after service of the discovery or subpoena. If discovery is stayed by the Commission, the person served shall be excused from compliance with the discovery order or subpoena until a decision on its appeal is made by the Commission.*

4) *Assessment and payment of discovery costs. The Commission may assess the costs of discovery, including fees for witness attendance and travel, against the party by which discovery was requested. Where a subpoena is issued on the Commission's own motion, fees for witness attendance and travel shall be paid by the Commission on request. Witness fees shall be the same as for a circuit court proceeding. Deposits to insure payment of costs and fees may be required.*

5) *Enforcement of discovery procedures. The Commission may, where a person has failed to comply with or permit discovery authorized hereunder, determine any or all issues within the scope of the discovery or subpoena adverse to such person without further evidence. The Commission may, in addition, assess civil penalties under Article VII of sub-chapter 1 of the ICTL for such violator for contempt and may assess the costs of enforcement, both before the Commission and before the court, against the violator.*

c) Each data request propounded by a party or Staff shall be served on all other active parties and the Staff in that docket. Responses to data requests shall only be served on those parties or Staff that have requested such responses. Data requests and responses thereto shall not be served on the Hearing Examiner or filed with the Chief Clerk.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.370 Supervision of Discovery

a) The Hearing Examiner, upon his or her own initiative, or upon the motion of any party or Staff, may, in consultation with the parties, develop docket-specific discovery schedules and procedures to facilitate the prompt and efficient resolution of the proceeding. In cases involving multiple parties, multiple issues and/or time deadlines, it is the policy of the Commission to encourage the establishment of discovery schedules and procedures at the earliest opportunity.

b) ~~a~~ The Hearing Examiner may at any time on his or her own initiative, or on motion of any party or Staff **witness**, issue such rulings as justice requires, denying, limiting, conditioning or regulating discovery to prevent unreasonable annoyance, expense, disadvantage or oppression.

c) ~~b~~ The Hearing Examiner, upon his or her own initiative, or upon the motion of any party or Staff **witness**, may supervise all or any part of any discovery procedure.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.410 Time Limits on Discovery

a) Requests for information or discovery and responses thereto shall be made in a timely fashion and in accordance with any time schedule set by the Hearing Examiner. No such request shall delay any proceeding in the absence of a showing that the requester has exercised due

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diligence and that the delay will not cause undue prejudice.

b) All responses to data requests shall be served within 28 days after service of the request, unless the period is shortened or lengthened by the Hearing Examiner or by agreement of the parties.

c) Requests for admissions shall be deemed admitted if not responded to within 28 days after service, unless the period is shortened or lengthened by the Hearing Examiner or by agreement of the parties.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

SUBPART D: HEARING PROCEDURE

Section 200.520 Interlocutory Review of Hearing Examiner's Ruling

a) Any ruling by a Hearing Examiner, including rulings of the Chief Hearing Examiner under Sections 200.510 and 200.870, may be reviewed by the Commission, but failure to seek immediate review shall not operate as a waiver of any objection to such ruling. Unless good cause is shown or unless otherwise ordered by the Hearing Examiner or the Commission, the ~~the~~ party or Staff ~~staff-witness~~ seeking review of the ruling shall file a petition for interlocutory review within 21 days after the date of the action that is the subject of the petition. The petition shall be filed with the Chief Clerk ~~a petition~~; together with any offer of proofy and shall be served ~~serve a copy of the petition~~ upon the Hearing Examiner and upon Staff ~~staff-witnesses~~ and all parties to the proceeding. Other parties and Staff ~~staff witnesses~~ may file responses within seven days of the filing of the petition. The Hearing Examiner shall have 14 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of such report on the parties and Staff ~~staff-witnesses~~. Only in extraordinary circumstances shall an interlocutory review of a ruling of a Hearing Examiner suspend a hearing.

b) On review of a Hearing Examiner's ruling, the Commission may affirm or reverse the ruling in whole or in part, and may take any other just and reasonable action with respect to the ruling, such as declining to act on an interlocutory basis. Petitions to rehear or reconsider Commission action taken under this Section shall not be entertained by the Commission and are not allowed under this Part, except as to persons who have been denied leave to intervene by such action.

(Source: ~~Amended~~ at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.525 Paper Hearings

a) Parties and Staff participating in the proceeding may stipulate to the

waiver of any rights they have to a hearing and that the matter be tried or otherwise resolved on the basis of written pleadings and submissions that are verified and supported by affidavit and that the Commission may enter a final order in the matter in reliance thereon.

b) Any such stipulation is subject to approval by all parties, Staff and the Hearing Examiner.

c) In the event there is only one party to the proceeding, the Hearing Examiner may grant the requested relief upon motion by said party.

d) Any party may propose such stipulations or make such motions at any time prior to the date the Hearing Examiner marks the case Heard and Taken. The Hearing Examiner may grant such relief at his or her discretion, after a reasonable period of time has elapsed to accommodate potential or likely intervention.

e) Upon the motion of any party or Staff, and for good cause shown, by order of the Commission, or by the Hearing Examiner's own motion, the Hearing Examiner may rescind his or her previous approval of the conduct of the proceedings on the basis of written submissions and may require such hearings as may be appropriate.

(Source: Added at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.530 Notice, Time and Place of Hearings

Except for those hearings permitted to be closed to the public by law, all proceedings of the Commission shall be open to the public. At least ten days' notice of the time and place of the first hearing shall be given to all parties; at least ten days' notice shall also be given to municipalities when required by Section 10-108 of the Public Utilities Act. In the discretion of the Commission or the Hearing Examiner, the first hearing may be held with less than ten days' notice if an emergency exists. Hearings may be held at such reasonable place in the State and at such reasonable time designated by the Commission or Hearing Examiner as may be consistent with the nature of the proceedings, the convenience of the parties and the public interest. A hearing by teleconference may be requested by a party or Staff and allowed by the Hearing Examiner taking into account the purpose for the hearing, the availability of equipment and the circumstances of the parties and the Staff.

(Source: ~~Amended~~ at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.605 Procedure for the Identification and Treatment in Hearings of Confidential or Proprietary Information or a Trade Secret

a) Whenever a party files testimony, exhibits or other documents which contain information which is claimed to be or determined to be confidential, proprietary or a trade secret, and that information is excluded from the public record, the testimony, exhibit or document

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shall indicate plainly that information has been deleted on the grounds that it is claimed to be or determined to be confidential, proprietary or a trade secret.

b) Parties may indicate that confidential or proprietary information or information which is a trade secret has been deleted by any method that plainly indicates on the public copy that information has been deleted and plainly identifies on the proprietary copy what specific information has been claimed to be or determined to be confidential, proprietary or a trade secret.

(Source: Added at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.615 Waiver of Cross-examination

Subject to the approval of the Hearing Examiner, parties and the Staff may stipulate that:

a) cross-examination of witnesses may be waived;

b) any witnesses for whom cross-examination has been waived need not be present at the hearing; and

c) the prepared testimony of any witness for whom cross-examination has been waived shall be entered in the record by affidavit of the witness.

(Source: Added at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.640 Administrative Notice

a) Consistent with Section 200.610, the Commission or Hearing Examiner may take administrative notice of the following:

1) Rules, regulations, administrative rulings and orders, and written policies of governmental bodies other than the Commission.

2) Contents of certificates, permits and licenses issued by the Commission, and the orders, transcripts, exhibits, pleadings or any other matter contained in the record of other docketed Commission proceedings.

3) Annual reports, tariffs, classifications and schedules regularly established by or filed with the Commission as required or authorized by law or by an order or rule of the Commission.

4) State and Federal statutes and municipal and local ordinances.

5) The decisions of State and Federal courts.

6) *Generally recognized scientific or technical facts within the specialized knowledge of the Commission.*

7) *All other matters of which the Circuit Courts of this State may take judicial notice.*

b) Requests for administrative notice of transcripts, exhibits, pleadings

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or any other matter contained in the record of other docketed Commission proceedings are discouraged.

c) ~~b)~~ *Parties and Staff ~~staff witnesses~~ shall be notified either before or during the hearing or otherwise of the materials noticed and shall be provided a reasonable opportunity to contest the material so noticed.* [5 ILCS 100/10-40] ~~(Ill. Rev. Stat. 1983, ch. 127, par. 1012).~~

AGENCY NOTE: As required by 1 Ill. Adm. Code 100.380, statutory language in this Section appears in distinguishing type. However, Section 10-40 of the Illinois Administrative Procedure Act, which is the statute quoted, applies only to contested cases and licensing proceedings. The statutory language in this Section is statutorily mandated as to such proceedings only, and not as to other proceedings. Nevertheless, this Section applies to all proceedings governed by this Part.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

SUBPART E: POST-HEARING PROCEDURE

Section 200.800 Briefs

a) At the close of the hearing, any party or Staff ~~staff~~ witness may request an opportunity to file a brief. In instances where Staff ~~staff~~ witnesses file a brief, one consolidated brief shall be filed on behalf of all Staff ~~staff~~ witnesses. The Hearing Examiner, after notice, may require the filing of briefs. Briefs shall be filed in the same order as evidence was presented in the proceedings or as otherwise directed by the Hearing Examiner. Statements of fact in briefs and reply briefs should be supported by citation to the record. ~~Parties and staff witnesses are encouraged to use transcript citations; however, failure to do so will not result in rejection of the brief.~~

b) Briefs shall be concise, and, if in excess of 30 ~~20~~ pages, excluding appendices, shall contain:

1) A table of contents;

2) A summary of the position of the party filing; and ~~A short statement of the case;~~

3) Argument. ~~A summary of the position of the party filing; and~~

~~4) Argument.~~

c) Parties and the Staff shall not raise an argument in their reply briefs that is not responsive to any argument raised in any other party's or the Staff's opening brief.

d) The Hearing Examiner may, with the agreement of the parties, allow oral closing statements to be made to the Hearing Examiner in lieu of briefs.

e) The Hearing Examiner, upon his or her own motion, or the motion of any party or Staff representative, may establish reasonable page

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limitations applicable to briefs.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.820 Hearing Examiner's Recommended or Proposed Order

a) Proceedings under the Public Utilities Act.

1) *In any hearing, proceeding, investigation or rulemaking conducted by the Commission, the Commission, Commissioner or hearing examiner presiding, shall, after the close of evidentiary hearings, prepare a recommended or tentative decision, finding or order including a statement of findings and conclusions and the reasons or basis therefore, on all the material issues of fact, law or discretion presented on the record. Such recommended or tentative decision, finding or order shall be served by the Chief Clerk of the Commission on all parties who shall be entitled to a reasonable opportunity to respond thereto, either in briefs or comments otherwise to be filed or separately. The recommended or tentative decision, finding or order and any responses thereto, shall be included in the record for decision.* [220 ILCS 5/10-111] ~~(Ill. Rev. Stat. 1985, ch. 111 2/3, par. 10-111).~~

2) Subsection (a)(1) applies only to those proceedings in which the decision is *adverse to a party to the proceeding other than the Agency* or in which a party or Staff requests that a recommended or tentative decision, finding or order be served based upon good cause shown. Good cause shall include, but not be limited to, a representation that issues that otherwise would have been contested have been resolved by agreement between two or more of the parties. [5 ILCS 100/10-45] ~~(Ill. Rev. Stat. 1985, ch. 127, par. 1013).~~

b) Other proceedings.

1) The Hearing examiner shall issue a proposed order in any "Contested Case" or "Licensing Proceeding" if the proposed order is adverse to any party in the proceeding.

2) The Commission may, upon its own motion, direct a Hearing Examiner to issue a proposed order in any other proceeding.

3) The proposed order shall be served on all parties and Staff ~~staff~~ witnesses by the Chief Clerk of the Commission.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.830 Exceptions; Reply

a) Within 14 days after service of the Hearing Examiner's proposed order, or such other time as is fixed by the Hearing Examiner, any party or Staff ~~staff~~ witness may file exceptions to the proposed order in a

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brief designated "Brief on Exceptions" and within 7 days after the time for filing "Briefs on Exceptions" or such other time as is set by the Hearing Examiner, any party or Staff ~~staff~~ witness may file as a reply, "Brief in Reply to Exceptions."

b) Exceptions and replies thereto with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or reply thereto is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. Exceptions and replies thereto may contain written arguments in support of the position taken by the party or Staff ~~staff~~ witnesses filing such exceptions or reply. When exceptions contain such written arguments in support of the position taken, the arguments and exceptions may be filed:

1) together in one "Brief on Exceptions"; or

2) in two separate documents designated "Brief on Exceptions," containing arguments, and "Exceptions," containing the suggested replacement statements or findings.

c) Arguments in briefs on exception and replies to exceptions shall be concise, and, if in excess of 30 pages, shall contain:

1) A table of contents; and

2) A summary of the position of the party filing.

d) Parties and Staff shall not raise an argument in their replies to briefs on exception that is not responsive to any argument raised in any other party's or Staff's brief on exception.

e) Statements of fact in briefs on exception and replies to briefs on exception should be supported by citation to the record.

f) The Hearing Examiner, upon his or her own motion, or the motion of any party or Staff representative, may establish reasonable page limitations applicable to arguments included in briefs on exception and replies to briefs on exception.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.850 Oral Argument

a) The Commission~~, upon its own motion or the motion of a party,~~ may hear oral argument upon seven days notice to the parties of the time and place upon:~~:~~

1) Its own motion;

2) The motion of a party; or

3) A request for oral argument noted by a party on either its opening brief, reply brief or brief on exceptions, accompanied by a statement in support of such request in the body of the brief.

b) Except upon special leave of the Commission, no party shall participate in oral argument without having filed a brief.

c) The presentation of written materials or visual aids to the Commission

at oral argument is permitted. To the extent such materials or aids contain factual information, they shall be supported by the record or briefs in the proceeding and shall contain accurate record citations. Such materials or aids may not contain new calculations or quantitative analyses not presented in the record or briefs, unless they are based on underlying data contained in the record. Copies of all written materials or visual aids to be presented to the Commission at oral argument shall be served on all parties participating in the oral argument not less than 48 hours prior to the time and date of oral argument.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.880 Rehearing

a) After issuance of an order on the merits by the Commission, a party may file an application for rehearing. The application shall state the reasons therefore and shall contain a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously adduced. The application shall be filed within 30 days after service of the order on the party. An original and 11 copies of the application shall be filed with the Commission.

b) Applications for rehearing must state with specificity the issues for which rehearing is sought. Incorporation of arguments made in prior pleadings and briefs must be specific as to document and page.

c) If an application for rehearing alleges new facts, then the application must be filed with a verification. A verification need not be filed with an application for rehearing if the application does not allege new facts.

d) No appeal shall be allowed from any order or decision of the Commission unless and until an application for rehearing thereof shall first have been filed and finally disposed of by the Commission. The Commission shall grant or deny such application in whole or in part within 20 days from the date of receipt by the Commission.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

Section 200.890 Appeals

a) Appeals from Commission final administrative decisions and orders entered under the Electric Supplier Act [220 ILCS 30] ~~[111 Rev. Stat. 1985, ch. 111 2/3, par. 401 et seq.]~~ and the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/Ch. 18A] ~~[111 Rev. Stat. 1985, ch. 95 1/2, par. 18a 108 et seq.]~~ shall be as provided by the Administrative Review Law [735 ILCS 5/Art. III] ~~[111 Rev. Stat. 1985, ch. 110, par. 3 101 et seq.]~~; appeals from decisions and orders

entered under the ICTL and the Public Utilities Act shall be as provided in those statutes.

b) Notice of appeals under Section 10-201 of the Public Utilities Act [220 ILCS 5/10-201] ~~[111 Rev. Stat. 1985, ch. 111 2/3, par. 10 201]~~ shall be served on all other parties of record. The notice of appeal filed with the Commission shall be captioned "(The name of appellant) v. Illinois Commerce Commission." In the body of the notice the appellant shall state the name and number of the Commission Docket, the order or orders appealed, but shall otherwise follow the form established by the Supreme Court Rules.

c) This subsection applies to appeals taken from Commission action under the ICTL or the Illinois Commercial Relocation of Trespassing Vehicles Law.

1) In such appeals, ~~under Section 10 201 of the Public Utilities Act~~ the appellant has a duty to provide all the transcripts and exhibits for the record on appeal. Within 20 days of the filing of the notice of the appeal, the appellant must file the transcripts and exhibits with the Commission or enter into a stipulation with counsel for the Commission, ~~the Attorney General's Office, Commerce Division,~~ extending the time for filing the transcripts and exhibits.

2) ~~d)~~ In the event that the appellant does not have all the transcripts and exhibits, the appellant may order the missing material from the Commission by filing a letter within the 20-day period (or within such time as required by the stipulation). Said letter must specify the Commission docket number, the date of each transcript ordered, and the nature and identification of each exhibit ordered. Letters not specifying the material to be copied or letters requesting the Commission to produce the record will be rejected and oral communication is insufficient.

3) ~~e)~~ None of the material duplicated as provided in subsection (c)(2) ~~(d)~~ will be released until the copying fee prescribed by Section 2-201 of the Public Utilities Act [220 ILCS 5/2-201] ~~[111 Rev. Stat. 1985, ch. 111 2/3, par. 2 201]~~ is paid.

4) ~~f)~~ Exercise of subsections (c)(2) and (c)(3) ~~(d) and (e)~~ above does not relieve the appellant of his statutory duty to timely file the transcripts and exhibits. The permission given in subsections (c)(2) and (c)(3) ~~(d) and (e)~~ does not mean or imply that the Commission will take upon itself the burden to duplicate and produce the record.

(Source: Amended at 20 Ill. Reg. 10607, effective AUG 15 1996)

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1) Heading of the Part: Procedures of the Department of Human Rights

2) Code Citation: 56 Ill. Adm. Code 2520

3) Section Numbers: Adopted Action:
2520.10 Amendment
2520.440 Amendment

4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

5) Effective Date of Rulemaking: July 24, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: July 24, 1996

9) Notice of Proposal Published in Illinois Register: 20 Ill. Reg. 4892 (March 16, 1996)

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Changed the Title of the Part from "Procedural" to "Procedures of Department of Human Rights".

In Section 2520.440, on the first line below subsection (d)(3)(b), replaced "respondent" with "party".

In Section 2520.440(d)(3)(b), below the above-referenced change, deleted the words beginning with "excuse" through the end of the sentence and replaced with "constitute good cause for failure of other persons to attend."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These Rules update the Department's regulations to comply with a recent amendment to the Illinois Human Rights Act.

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16) Information and questions regarding these adopted amendments shall be directed to:

Name: David T. Rothal
Address: Staff Attorney
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Telephone: 312/814-6242
TDD: 312/263-1579

The full text of the Adopted Amendment begins on the next page:

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520
PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS ~~PROCEDURAL~~

SUBPART A: INTERPRETATIONS

Section
2520.10 Definition of Terms
2520.20 Computation of Time
2520.30 Service of Documents
2520.40 Filing with the Department
2520.50 Separability
2520.110 Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section
2520.310 Time of Filing (Repealed)
2520.320 Form (Repealed)
2520.330 Contents
2520.340 Requirements for Charge (Repealed)
2520.350 Unperfected Charge
2520.360 Amendment
2520.370 Substitution and Addition of Parties (Repealed)
2520.380 Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section
2520.410 Docketing and Service of Charge (Repealed)
2520.420 Maintenance of Records (Repealed)
2520.430 Investigation
2520.440 Fact-Finding Conference
2520.450 Administrative Closure (Repealed)
2520.460 Determination After Investigation (Repealed)
2520.470 Conciliation (Repealed)
2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section
2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
2520.540 Non-Compliance with Settlement Terms (Repealed)

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SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section
2520.550 Administrative Closure
2520.560 Dismissal
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

2520.573 Filing with Chief Legal Counsel
2520.575 Contents for Request for Review
2520.577 Notice by the Chief Legal Counsel
2520.580 Extension of time
2520.583 Reply to Request for Review
2520.585 Additional Investigation
2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section
2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section
2520.700 Definitions
2520.710 Scope and Purpose
2520.720 Affirmative Action Groups
2520.730 Consideration of Additional Groups
2520.740 Definitions (Renumbered)
2520.750 Nondiscrimination (Repealed)
2520.760 Plans
2520.770 Reporting and Record-Keeping
2520.780 Equal Employment Opportunity Officers
2520.790 Complaint Process
2520.795 Compliance Reviews
2520.797 Sanctions for Noncompliance

APPENDIX A Contents of Affirmative Action Plans
APPENDIX B Value Weight Assignment Chart

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act

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[775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective JUL 24 1996.

SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms

For purposes of this Part, the following terms shall have the meanings indicated:

Act -- shall mean the Illinois Human Rights Act [775 ILCS 5].

Charge -- shall mean an allegation of a civil rights violation filed with or initiated by the Department, and with regard to Subpart F, one filed with a local human rights agency.

Chief Legal Counsel -- shall mean the Chief Legal Counsel of the Department or a duly authorized designee.

Commission -- shall mean the Illinois Human Rights Commission or, where appropriate, a panel of three Commissioners.

Complainant -- shall mean a person who files a charge or a complaint, including the Department in the case of a charge initiated by the Department.

Complaint -- shall mean a written complaint for hearing filed with the Commission.

Days -- shall mean calendar days.

Department -- shall mean the Department of Human Rights.

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Director -- shall mean the Director of the Department or a duly authorized designee.

Good cause -- as used in this Part and in Section 7A-102(C)(4) of the Act [775 ILCS 5/7A-102(C)(4)] means conditions such that a reasonable person would not attend a fact finding conference.

Local Agency -- shall mean any department, commission or other instrumentality of a municipality or other political subdivision of the State of Illinois, or of two or more such political subdivisions acting jointly, which is duly established to serve purposes consistent with those of the Human Rights Act.

Party -- shall mean the complainant or respondent.

Person -- shall have the same meaning as in Section 1-103 of the Act [775 ILCS 5/1-103].

Request for Review -- shall have the same meaning as in Sections 7-101.1 and 7-112 of the Act [725 ILCS 5/7-101.1 and 7-112].

Respondent -- shall mean a person against whom a charge or complaint is filed.

Unlawful Discrimination -- shall mean any form of discrimination prohibited under the Act or under a local ordinance administered by a local agency.

(Source: Amended at 20 Ill. Reg. 10631, effective JUL 24 1996)

SUBPART C: PROCEDURES UPON CHARGE

Section 2520.440 Fact-Finding Conference

a) Notice. As part of its investigation, the Department may convene a fact-finding conference for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of a negotiated settlement. Notice of the conference shall be given to all parties at least ten days prior thereto, and shall identify the individuals requested to attend on behalf of each party. These ~~The~~ time provisions ~~contained in this subsection~~ may be waived by agreement of the parties and the Department.

b) Attorneys, Witnesses. A party may be accompanied at a fact-finding conference by his/her attorney or other representative, and by a translator if necessary. An attorney for a party not previously having entered an appearance must do so at the beginning of the

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conference. The parties may bring witnesses to the conference in addition to those whose attendance is may be mandated by the Department.

c) Conduct. The investigator or other employee of the Department shall conduct the conference and control the proceedings. No tape recording, stenographic report or other verbatim record of the conference can be made. The investigator shall decide which witnesses shall be heard and the order in which they are heard. The investigator may exclude witnesses and other persons from the conference, except that each party and one its representative and a translator shall be permitted to remain.

d) Dismissal or Default for Non-attendance.

1) For charges filed before January 1, 1996, the The failure of a party to attend the conference without good cause after due notice may result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent. For charges filed on or after January 1, 1996, the failure of a party to attend the conference without good cause after due notice shall result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent.

2) A party who appears at the conference exclusively through an attorney or other representative unfamiliar with the events at issue shall be deemed to have failed to attend, unless, with respect to a respondent, it establishes that it does not employ or control any person with knowledge of the events at issue.

3) Pursuant to this Section and Section 7A-102(C)(4) of the Act, good cause may include, but shall not be limited to:

A) death or sudden, serious illness of a party scheduled to attend the fact finding conference; or

B) death or sudden, serious illness of an immediate family member of a party scheduled to attend the fact finding conference.

If more than one person from a party is scheduled to attend the fact finding conference, the inability of one person to attend shall not constitute good cause for failure of other persons to attend.

4) In assessing good cause, the factors which the Department may consider shall include, but shall not be limited to, whether the party has provided timely notice of its inability to attend the fact finding conference and whether the party has complied with the Department's request for documentation of the reason for not attending the conference.

5) Whether good cause exists and whether a fact finding conference is rescheduled are in the sole discretion of the Department.

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(Source: Amended at 20 Ill. Reg. 10637 effective JUL 24 1996)

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1) Heading of the Part: Health Maintenance Organization

2) Code Citation: 50 Ill. Adm. Code 6101

3)

Section Number:	Adopted Action:
6101.10	Adopted
6101.20	Adopted
6101.30	Adopted
6101.40	Adopted
6101.50	Adopted
6101.60	Adopted
6101.70	Adopted
6101.80	Adopted
6101.100	Adopted
6101.110	Adopted
6101.112	Adopted
6101.113	Adopted
6101.120	Adopted
6101.130	Adopted
6101.140	Adopted
6101.141	Adopted
6101.142	Adopted
6101.150	Adopted

4) Statutory Authority: Implementing and authorized by Sections 5-2 and 507 of the Health Maintenance Organization Act.

5) Effective Date of Amendments: July 25, 1996

6) Does this Amendment contain an automatic repeal date? No

7) Does this Amendment contain incorporations by reference? No

8) Date filed in Agency's Principal Office: July 25, 1996

9) Notice of Proposal Published in Illinois Register: July 28, 1995, 19 Ill. Reg. 10937

10) Has JCAR issued a Statement of Objections to this Amendment? No

11) Difference(s) between proposal and final version:

(a) Change all source notes from "19" to "20".

(b) Section 6101.20 - Add "Base Rates means the rate generated before any classification deviations are applied."

(c) Section 6101.20 - Delete the definition of "Emergency".

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(d) Section 6101.20 - Point of Service - On the third line, delete "group". On the fourth line add "policy or" following "insurance".

(e) Section 6101.40(e) - On the fifth line, add "voting" ahead of "individuals". Also delete "who are present" following "committee".

(f) Section 6101.50(b)(4) - Delete "which would be detrimental to the best interest of enrollees or subscribers of the HMO; or". Add "contrary to the Illinois Insurance Code; or" in lieu thereof.

(g) Section 6101.50(d) - On the first line, delete "For any new or existing". Add "This subsection shall apply to all" in lieu thereof. On the second line, change "agreement" to "agreements". Also, delete "in which" following "agreements".

(h) Section 6101.50(d) - On the second line, add a comma following "arranges".

(i) Section 6101.50(d) - On the fourth line, delete "five percent (5%)". Add "ten percent (10%)" in lieu there of.

(j) Section 6101.50(d) - On the fourth line delete "total" following "HMO's". Add "current" following "HMO's". Change "enrollment," to "enrollment." Delete all remaining proposed text. Add the following text in lieu thereof: "All such capitated provider agreements shall contain a provision which states that the provider will submit to the HMO, copies of its quarterly financial statements which shall include provider's balance sheet and statements of income and cash flow within forty-five (45) days after the end of each fiscal period. In addition, the HMOs shall require the provider to submit within ninety (90) days after the end of the provider's fiscal year copies of its audited annual financial statements prepared in accordance with generally accepted accounting principles if available. The Department at its discretion may require the HMO to submit for inspection by the Department such statements as the HMO has received from the providers. Such information shall be deemed confidential by the Department."

(k) Section 6101.60(a) and (b) - On the first line, and first and third lines respectively, add "base" following "of".

(l) Section 6101.100(f) - On the first line, delete "with a list of the names and locations of all of its providers".

(m) Section 6101.100(f) - Beginning on the third line, delete "and also upon reenrollment. Such list of ..." and all proposed text remaining. Add the following text in lieu thereof: "lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. Such lists shall

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disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:

> NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone number)."

(n) Section 6101.110(a) - On the eleventh line, add "valid current" following "between the". Also, on the twelfth line, add "referenced above" following "document".

(o) Section 6101.110(a) - On the thirteenth line, add "current" ahead of "group". Also, on the fourteenth line, delete "the document in hand of the subscriber or enrollee or".

(p) Section 6101.110(i) - Six lines up from the bottom, change "shall not be" to "shall are not be".

(q) Section 6101.110(i) - Add "Nothing within this subsection shall preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments."

(r) Section 6101.110(p) - Three lines up from the bottom, delete "in compliance with" and add the following in lieu thereof ", provided the enrollee complies with the disenrollment procedures of".

(s) Section 6101.110(q) - On the first line, delete "an enrollee handbook" and add "information" in lieu thereof.

(t) Section 6191.110(q) - Four lines up from the bottom, delete "handbook" and add "information" in lieu thereof.

(u) Section 6101.110(v)(1) - On the fourth line, add "HMO" ahead of "contract".

(v) Section 6101.113(a) - On the third line, delete "should" and add "must" in lieu thereof. Also, on the fourth line, add "financial" following "reasonable".

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(w) Section 6101.113(c) - Delete all proposed text. In lieu thereof add "c) Covered services rendered by a participating physician without proper authorization shall be covered at the out-of-network benefit level."

(x) Section 6101.113(d) - Delete all proposed text. In lieu thereof add "d) For purposes of coordination of benefits, the two policies comprising the point of service product shall be considered to be one policy."

(y) Section 6101.113(e) - Delete all proposed text. In lieu thereof add the following text: "e) For purposes of conversion and State continuation, the HMO shall provide each enrollee who has a POS plan the right to convert to either an HMO option or indemnity option. The HMO may, but is not required to, offer the enrollee the right to continue under a POS option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, then such plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply."

(z) Section 6101.130(g) - Change "Preventative" to "Preventive".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Department has undertaken this rulemaking to add new requirements for Point of Service Plans which can be found in Section 6101.113 of this Part. We have also revised existing requirements and have clarified our regulatory intent.

These amendments set minimum coverage standards for basic health care services, full and fair disclosure of health care services provided by group contracts or evidences of coverage including coordination of benefits, conversion, cancellation, termination, deductibles and copayments, pre-existing conditions and other provisions to carry out the HMO Act.

16) Information and questions regarding this adopted Amendment shall be directed to:

Compliance Questions:

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Mary Petersen
Department of Insurance
320 West Washington
Springfield, IL 62767-0001
(217) 782-6369

(and)

Financial Questions:
Jeff Martin
Department of Insurance
320 West Washington
Springfield, IL 62767-0001
(217) 782-1798

The full text of the Adopted Amendment begins on the next page:

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ddd: HEALTH MAINTENANCE ORGANIZATIONS

PART 6101
HEALTH MAINTENANCE ORGANIZATION

Section
6101.10 Scope
6101.20 Definitions
6101.30 Valuation of Investments ~~Filing of Application for Certificate of Authority~~
6101.40 Grievance Procedure
6101.50 Contracts, ~~and~~ Administrative Arrangements and Material Modifications
6101.60 Rates
6101.70 ~~Capitalization; Contingent Reserves;~~ Subordinated ~~Notes; and Dividend Payments~~ Indebtedness
6101.80 Financial Reporting
6101.90 Conflict of Interest and Required Disclosure
6101.100 Solicitation
6101.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
6101.111 Cancellation
6101.112 Form Filing Requirements
6101.113 Point of Service Plan Requirements
6101.120 Internal Security Standards and Fidelity Bonds
6101.130 Basic Health Care Services
6101.140 General Provisions
6101.141 HMO Producer Licensing Requirements
6101.142 Limited Insurance Representative Requirements - Public Aid and Medicare Enrollers
6101.150 Severability
6101.160 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/5-2 and 5-7].

SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective JUL 25 1996.

Section 6101.10 Scope

This Part ~~These Rules~~ shall apply to any Health Maintenance Organization (HMO) as defined in the Act.

(Source: Amended at 20 Ill. Reg. 10639, effective

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JUL 25 1996

)

Section 6101.20 Definitions

"Act" means the Health Maintenance Organization Act [215 ILCS 125/1-1 et seq.], hereinafter referred to as the "Act" ~~[111. Rev. Stat., 1989, Ch. 111 1/2, par. 1401 et seq.], as amended~~.

"Advertisement" means any printed or published material, audiovisual material and descriptive literature of the health care plan used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the health care plan for presentation to the public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations (Section 1-2(1) of the Act).

Base Rates means the rate generated before any classification deviations are applied.

"Basic Health Care Services" means emergency care, and inpatient hospital and physician care, outpatient medical services, mental health services and care for alcohol and drug abuse, including any reasonable deductibles and co-payments, all of which are subject to such limitations as are set forth in this Part (Section 1-2(3) of the Act).

"Cancellation" means the termination of a group contract, evidence of coverage or individual contract by an HMO prior to the expiration date of the group contract, evidence of coverage or individual contract.

"Consumer" means any enrollee, provided that such individual is not or has not been in the previous two years: an employee (including his spouse or dependent) of the HMO or affiliate of the HMO; or a provider furnishing health care services to the HMO or affiliate of the HMO.

"Copayment" means the amount an enrollee must pay in order to receive a specific covered service which is not fully prepaid.

"Deductible" means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs associated with treatment.

"Department" mean the Illinois Department of Insurance.

Department of Insurance Complaint means a written complaint filed by or on behalf of an enrollee, with the Department pursuant to Section 4-6 of the Act [215 ILCS 125/4-6], excluding complaints filed by

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Illinois Department of Public Aid HMO members under Section 5-11 [305 ILCS 5/5-11] and complaints subject to handling by the Health Care Financing Administration pursuant to a contract entered into between the Health Care Financing Administration and the HMO.

"Director" means the Director of the Illinois Department of Insurance (Section 1-2(2) of the Act).

"Enrollee" means an individual who has been enrolled in a health care plan (Section 1-2(4) of the Act).

"Evidence of Coverage" means any certificate, agreement, or contract issued to enrollees ~~an enrollee~~ setting out the coverage to which they are ~~he--is~~ entitled in exchange for a per capita prepaid sum (Section 1-2(5) of the Act).

"Governing Body" means the Board of Trustees, or directors, or if otherwise designated in the basic organizational document bylaws, those individuals vested with the ultimate responsibility for the management of any organization that has been issued, or is applying for, a certificate of authority as an HMO ~~a--Health--Maintenance Organization~~.

"Grievance" means any written complaint submitted to the HMO by or on behalf of an enrollee regarding any aspect of the HMO relative to the enrollee, but shall not include any complaint by or on behalf of a provider.

"Grievance Committee" means individuals who have been appointed by the HMO to respond to grievances which have been filed on appeal from the HMO's simplified complaint process established pursuant to Section 6101.40(d) of this Part. At least 50 percent of the individuals members on this committee shall be composed of enrollees who are consumers.

"Group Contract" means a contract for health care services which by its terms limits eligibility to members of a specified group (Section 1-2(6) of the Act).

"Health Care Plan" means any arrangement whereby any organization undertakes to provide or arrange for and pay for or reimburse the cost of any basic health care services from providers selected by the HMO ~~Health Maintenance--Organization~~ and such arrangement consists of arranging for or the provision of such health care services, as distinguished from mere indemnification against the cost of such services, except as otherwise authorized by Section 2-3 of the Act, on a per capita prepaid basis, through insurance or otherwise (Section 1-2(7) of the Act).

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"Health Care Services" means any services included in the furnishing to any individual of medical or dental care, or the hospitalization or incident to the furnishing of such care or hospitalization as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury (Section 1-2(8) of the Act).

"HMO" means Health Maintenance Organization.

"Individual Contract" means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

Managed Care Organization (MCO) ~~"Individual Practice Association (IPA)"~~ means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

"Limited Insurance Representative" means an individual appointed by an HMO to represent the HMO in the enrollment of recipients of Public Aid or Medicare in the HMO.

"Notice of Availability of the Department" as required by this Part shall be no less informative than the following:

> The regulations Rules of the Illinois Department of Insurance (50 Ill. Adm. Code 6101.100) requires that we advise you that if you wish to take this matter up with the Illinois Department of Insurance it maintains a Consumer Division in Chicago at 100 W. Randolph Street, Suite 15-100, Chicago, Illinois 60601-3251 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767-0001.

Point of Service Plan means a plan in which an eligible enrollee is covered under both an HMO evidence of coverage and an indemnity insurance policy or certificate and may select, on a point of service basis, between using the HMO or the indemnity benefit program. Under such a plan enrollees, at their option, may obtain health care services, including but not limited to basic health care services as defined in Section 1-2(3) of the Act [215 ILCS 125/1-2(3)] and Section 6101.130 of this Part outside the HMO's provider network.

"Primary Care Physician" means a provider who has contracted with an HMO to provide primary care services as defined by the contract and who is:

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> a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice of internal medicine, pediatrics, gynecology, obstetrics or family practice, or
>
> a chiropractic physician licensed to treat human ailments without the use of drugs or operative surgery (77 Ill. Adm. Code 240.2).

"Producer" means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment (Section 1-2(13) of the Act).

"Provider" means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care service and also includes any other entity that arranges for the delivery or furnishing of health care services (Section 1-2(12) of the Act).

"Renewal" means the issuance and delivery by an HMO of a group contract or individual contract superseding at the end of the contract period a contract previously issued and delivered by the same HMO or the issuance and delivery of a certificate or notice extending the term of the group or individual contract beyond its contract term.

"Solicitation" means any method ~~means~~ by which information relative to an HMO is made known to the public for the purpose of informing or influencing potential enrollees to enroll in a Health Care Plan, regardless of the media or technique used.

"State" means any governing body, department, or agency of the State of Illinois which has regulatory authority governing the ~~Health Maintenance Organization~~ Act.

"Subscriber" means a person who has entered into a contractual relationship with the HMO for the provision of or arrangement of at least Basic Health Care Services to the beneficiaries of such contract (Section 1-2(15) of the Act).

"Supplemental Health Care Services" means any health care service other than basic health care services.

"Usual and Customary Fee" shall mean the fee as reasonably determined by the HMO that ~~which~~ is based on the fee which the provider who renders the service usually charges its patients for the same service and the fee ~~which~~ is within the range of usual fees other providers of similar type, training and experience in a similar geographic area charge their patients for the same service, under similar or comparable circumstances.

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(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.30 Valuation of Investments ~~Filing of Application for Certificate of Authority~~

a) The "Valuations of Securities Manual" as of December 31, 1994 (no later editions or amendments) as published by the National Association of Insurance Commissioners (NAIC) shall be used for valuing securities for which valuations are not otherwise defined by statute or rule. The Director shall disallow any procedure prescribed by this manual if the Director deems it necessary to ascertain the condition and affairs of the company. In making this determination, the Director shall consider such factors as:
   1) the nature of the investment (stocks or bonds);
   2) the financial condition of the issuing company;
   3) the applicability of other standardized accounting procedures; and
   4) other factors affecting the accuracy of the valuation.

b) The following procedure shall be required for the listed investment:
   1) Real Estate
      Written appraisals for real estate investments shall be submitted to the Department for review 15 days following the end of the month in which the real estate was acquired. Real estate investments requiring approval under Section 3-1(b)(16)(iii) of the Act (215 ILCS 125/3-1(b)(16)(iii)) shall have an appraisal. The appraisal shall be reviewed to insure that the appraisal was performed by persons qualified under this subsection, performed in the customary manner and that the appraisal supports the valuation amount expressed by the company in its annual statement. Such appraisals shall be performed by a member of the American Institute of Real Estate Appraisers.
   2) Valuation of Investments Otherwise Defined
      A company that has an investment which cannot be valued in accordance with the foregoing procedures must file a request for valuation with the Department within 15 days following the end of the month in which the investment is acquired. This request shall include at a minimum the following information:
      A) A description of the investment,
      B) Date of acquisition,
      C) Name of vendor,
      D) Cost of investment to company,
      E) Par value, if relevant,
      F) Rate and/or amount of interest, dividend or other compensation earned or accrued,
      G) Any other significant terms of the investment.

~~a) Any Person applying for a Certificate of Authority to operate or be responsible for the operations of a Health Maintenance Organization, except as provided for in Section 11 of the Act (111. Rev. Stat. 1991, ch. 111 1/2, par. 1411), shall organize a separate and distinct corporation, partnership, trusty or other legal entity for the purpose of providing or arranging for one or more Health Care Plans and conducting no other business not related to the operations of an HMO.~~

~~b) All applications for a Certificate of Authority will be reviewed in accordance with the standards set forth in these rules, the Act, and the rules and regulations of the Department of Public Health. For the purpose of making application for a Certificate of Authority, the requirements of the Department of Public Health will be satisfied upon certification by the Director of the Department of Public Health that the applicant has met the requirements of Section 4 of the Act (111. Rev. Stat. 1991, ch. 111 1/2, par. 1404).~~

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(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.40 Grievance Procedure

a) Every HMO shall submit for the Director's approval, and thereafter maintain, a system for the resolution of grievances concerning the provision of health care services or other matters concerning operation of the HMO as follows. Each HMO shall:
   1) Submit to the Director for prior approval any proposed changes to the system by which grievances may be filed and reviewed;
   2) Maintain records of each grievance filed with the HMO until the grievance is resolved and for a period of at least 3 years to include:
      A) A copy of the grievance, the date of its filing,
      B) The date and outcome of all consultations, hearings and hearing findings,
      C) The date and decisions of any appeal proceedings, and
      D) The date and proceedings of any litigation;
   3) Submit to the Director in a form prescribed by the Director, a report by March 1 for the previous calendar year which shall include at least the following:
      A) the total number of grievances handled;
      B) a compilation of causes underlying the grievances;
      C) the outcomes of the grievances;
      D) the elapsed time from receipt of the grievance by the HMO until its conclusion; and
      E) the number of malpractice claims filed and if such claims have been completely adjudicated, a compilation of causes, disposition, form and amount of any settlements.

b) Every HMO shall have a grievance committee which shall have the authority to hear and resolve by majority vote grievances submitted to it as provided in subsection Subsection (a) above.

1) Notwithstanding any other provisions of this Section, the grievance committee may, but is not required to, hear any grievance which alleges or indicates possible professional liability, commonly known as "malpractice."
2) The committee is not empowered to resolve grievances in any manner which, or prescribe any actions that which, are in conflict with written policies of the HMO's Governing Body, but the committee may hear such grievances for the purpose of providing input to the Governing Body.
3) The grievance committee shall meet at the main office of the HMO, or such other office designated by the HMO where the main office is not within fifty (50) miles of the grievant's home address. Consideration shall be given to the enrollee's request pertaining to the time and date of such meeting. The enrollee shall have the right to attend and participate in the formal grievance proceedings. The enrollee shall have the right to be represented by a designated representative of his choice.
4) The filing of a grievance shall not preclude the enrollee from filing a complaint with the Department nor shall it preclude the Department from investigating a complaint pursuant to its authority under Section 4-6 of the Act.

c) The grievance procedures must be fully and clearly communicated to all enrollees and information concerning such procedures shall be readily available to the enrollee.
d) Every HMO shall have simplified procedures for resolving complaints. Such procedures do not require review of the complaint by the grievance committee, but a log, file, or other similar records must be maintained to identify the general nature of such complaints. Resolution of such complaints shall not preclude the enrollees' rightful access to review by the grievance committee of a grievance.
e) The HMO shall institute procedures which would require grievances to have a determination made by the grievance committee within 60 days from the date the grievance is received by the HMO. A grievance may not be heard or voted upon unless at least 50% of the voting individuals of the committee are enrollees. The determination by the grievance committee may be extended for a period not to exceed 30 days in the event of a delay in obtaining the documents or records necessary for the resolution of the grievance. All requests for documents or records necessary for the resolution of the grievance shall be maintained in the HMO's grievance file.
f) The grievance procedure shall provide the enrollee with a written acknowledgment of their grievance within 10 business days after receipt by the HMO.
g) The enrollee shall be notified at the time of the hearing of the name and affiliation of those grievance committee members who are representatives of the HMO.
h) The HMO shall institute procedures whereby any documentation furnished to the members of the grievance committee shall also be made available

to the enrollee not less than five (5) business days prior to the hearing of their grievance. The HMO shall not present any evidence without the enrollee having been given the opportunity to be present.
i) Notification in writing of the determination of the grievance committee shall be mailed to the enrollee within five (5) business days of such determination. Notice of the determination made at the final appeal step of the HMO's grievance process shall include a 'Notice of Availability of the Department'.
j) Prior to the resolution of a grievance filed by a subscriber or enrollee, coverage shall not be terminated for any reason which is the subject of the written grievance, except where the HMO has, in good faith, made a reasonable effort to resolve the written grievance through its grievance procedure and coverage is being terminated as provided for in Section 6101.111 of this Part.

(Source: Amended at 20 Ill. Reg. 10636, effective JUL 25 1996)

Section 6101.50 Contracts, and Administrative Arrangements and Material Modifications

a) Agreements or Contracts
1) ~~A~~ All sample agreements or contracts, with variable language bracketed, under which any person ~~Person~~ is delegated management duties or control of the HMO ~~Health Maintenance Organization~~, or which transfer a substantial part of any major function of the HMO including, but not limited to, all reinsurance treaties, all agreements with providers and MCO's ~~Providers, IPA's~~ and all administrative service contracts must be submitted to the Department of Insurance ~~for prior approval~~ and the HMO must file with the Department any contract amendments, renewals, addendums thereto, or any change from those originally submitted and any material modification to the application submitted pursuant to Section 1-2 of the Act [215 ILCS 125/1-2] including, but not limited to, extension of service area ~~for approval~~.
2) The Illinois Department of Public Health shall also receive for review copies of all sample agreements with providers and MCO's, as well as any amendments, addendums or any change from those agreements originally submitted.
3) ~~B~~ On a quarterly basis, each HMO must submit a list identifying any MCO ~~such IPA~~ with which the HMO has a current contract. Such list must contain the name, address and telephone number of the MCO ~~IPA~~ as well as the name of its Administrator. The quarterly report shall be due at the Department within ten days following the end of each quarter.
4) ~~2~~ All types of written health care provider ~~Provider~~ agreements must contain provisions whereby the provider ~~Provider~~ shall provide, arrange for, or participate in the quality assurance

programs mandated by the Act [215 ILCS 125/2-8(b)], unless the Illinois Department of Public Health certifies that such programs will be fully implemented without any participation or action from such contracting provider ~~Provider~~.

5)~~3~~) All provider ~~Provider~~ agreements shall provide for at least 30 days notice by the provider ~~Provider~~ for termination with cause, as defined in such provider ~~Provider~~ agreement, and at least 90 days notice by the provider ~~Provider~~ for termination without cause. The HMO ~~Health Maintenance Organization~~ must inform the Department ~~of Insurance~~ immediately of any known or intended termination, with or without cause, of an MCO.

6)~~4~~) Subscribers must receive notice from the HMO at least 45 days in advance of any termination which would curtail or eliminate services to subscribers. However, in the event that the HMO receives notice of less than 45 days from any provider ~~Provider~~ for termination of any contract which would curtail or eliminate services to subscribers, the HMO must provide immediate notice to the subscribers. Such Notice shall include instructions regarding referrals which have been issued and appointments which may be pending.

7)~~5~~) The contractual agreement between the provider ~~Provider~~ and the HMO must contain evidence that the provider ~~Provider~~ has professional liability insurance and that such insurance coverage is effective as of the effective date of such contract. Furthermore, the contract must set forth that the Provider will give at least 15 days advance notice of cancellation of such insurance. In those instances in which the HMO will provide physician services directly through employed physicians and not through contractual arrangement with a provider ~~Provider~~, the HMO shall provide evidence to the Department ~~of Insurance~~ that each individual physician has such professional liability insurance or that the HMO has such coverage on behalf of such employed physicians.

b) The Director must disapprove any provider agreement if, at any time, he finds:

1) that the charges to the HMO are based on factors unrelated to the value of providing services to the HMO; or

2) that the contract will significantly impact or threaten the financial viability of the HMO; or

3) that the provider agreement would transfer substantial control of the HMO or any powers vested in the board of directors, by statute, articles of incorporation or bylaws, or substantially all of the basic functions of the HMO management; or

4) that the provider agreement contains provisions contrary to the Illinois Insurance Code; or

5) that the provider is or has been affiliated directly or indirectly, through ownership, control, management, reinsurance transactions or other insurance, or business relations with any

person or persons known to have been involved in the improper manipulation of assets, accounts or reinsurance.

c) If the Director disapproves of any provider agreement, notice of such action shall be given to the HMO assigning the reasons therefor in writing. The Director shall grant any party to the provider agreement a hearing upon request according to Article XXIV [215 ILCS 5/401 et seq.] of the Illinois Insurance Code.

d) This subsection shall apply to all capitated provider agreements the provider furnishes, arranges, or provides for health care services to greater than or equal to ten percent (10%) of the HMO's current enrollment. All such capitated provider agreements shall contain a provision which states that the provider will submit, to the HMO, copies of its quarterly financial statements which shall include provider's balance sheet and statements of income and cash flow within forty-five (45) days after the end of each fiscal period. In addition, the HMOs shall require the provider to submit within ninety (90) days after the end of the provider's fiscal year copies of its audited annual financial statements prepared in accordance with generally accepted accounting principles if available. The Department at its discretion may require the HMO to submit for inspection by the Department such statements as the HMO has received from the providers. Such information shall be deemed confidential by the Department.

e) The procedure to be followed by HMOs for extension of operations into additional counties in Illinois shall be as follows:

1) Upon receipt of certification by the Illinois Department of Public Health, the HMO shall submit a letter to the Director amending its service area. This letter will indicate that all subscription certificates, rates, provider agreements, and any other applicable documents to be used to service the extended area are those previously filed or, if not, new or revised documents will be submitted to the Department for review.

2) Each such notification for extension of operations shall be accompanied by a list of the counties in which the HMO is authorized to operate prior to any requested extension of service area.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.60 Rates

a) The HMO shall file all schedules of base rates to be used in conjunction with enrollee certificates. Such schedules shall be filed with the Director prior to the effective date and will be maintained as a public document by the Department.

b) When the schedules of base rates are filed, percentage change from the previous filing for the schedules of base rates shall be included.

c) Upon the request of the Director, the HMO shall submit actuarial

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documentation for any submitted base rates which shall be stamped "confidential" by the HMO. Such documentation shall include, but not be limited to, the major cost components, experience, assumptions, and procedures used to develop the submitted rates. Such actuarial documentation shall be deemed confidential and proprietary by the Department unless specific authorization is given by the HMO.

~~a) The Health Maintenance Organization shall submit all schedules of rates to be used in conjunction with enrollee certificates. Such schedules shall be submitted to the Director prior to the effective date and may be disapproved for specific reasons within 45 days of the filing of supporting information in accordance with Subsection (b) of this Section.~~

~~b) The major cost components that constitute the aggregate rate shall be submitted to the Director in accordance with his directives. Each cost component shall be accompanied by a suitable description of the underlying assumptions, procedures and identification of source documents followed by the HMO in determining the rate.~~

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.70 ~~Capitalization, Contingent Reserves~~ Subordinated ~~Notes, and Dividend Payments~~ Indebtedness

a) Subordinated Indebtedness

1) Subordinated indebtedness agreements shall be submitted for the approval of the Director as required by Section 2-9 of the Act. The agreement must state that the repayment of principal or the payment of interest may be made only after the HMO has obtained approval from the Director and only if, after such payment, net worth is equal to or greater than net worth immediately after issuance of the subordinated indebtedness agreement. The agreement shall bear interest either:

A) at a fixed rate not exceeding the corporate base rate as reported by the largest bank (measured by assets) with its principal office located in Chicago, Illinois, in effect on the first business day of the month in which the subordinated indebtedness agreement is executed, plus 3% per annum, or

B) at a variable rate equal to the corporate base rate determined on the first business day of each month during the term of the loan, plus 2% per annum.

2) In no event shall the variable interest rate for any month exceed the initial rate for the loan or advance by more than 10% per annum. The HMO shall elect at the time of execution of the agreement whether the interest rate is to be fixed or floating for the term of the agreement. The following shall be submitted for the Director's approval prior to execution of the

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subordinated indebtedness agreement:

A) Duplicate copies of the entire subordinated indebtedness agreement.

B) A certified copy of the resolution of the board of directors or the appropriate authoritative body of the HMO. This resolution shall stipulate the maximum amount of subordinated indebtedness authorized.

3) The Director shall be notified immediately in writing upon the execution of any such subordinated indebtedness agreement as to the amount thereof and to whom payable.

b) Accounting for the subordinated indebtedness on the HMO's financial statements shall be as follows:

1) All outstanding subordinated indebtedness and interest accrued thereon shall be reported separately in the Annual Statement on page 3 and in any other financial statements of the company as a special surplus account.

2) The issuance and repayment of the subordinated indebtedness, as well as the payment of the interest thereon, shall be reflected as direct debits or credits to the net worth of the HMO's financial statement.

3) The interest expense incurred on the subordinated indebtedness during the current period shall be reflected on the Statement of Revenue, Expenses and Net Worth of the HMO's financial statements.

c) An HMO may only repay principal and make payment of interest on any subordinated indebtedness as provided under Section 2-9 of the Act. No payment shall be authorized by the Director unless:

1) The HMO's net worth is reasonable in relation to its outstanding liabilities and adequate for its financial needs, and

2) Such payment will not reduce the HMO's net worth to an amount less than that stimulated in subsection (a)(1) above, and

3) Such payment is consistent with the terms of the subordinated indebtedness agreement approved pursuant to subsection (a) above.

~~d) In the event that any portion of required initial minimum capital is provided through a subordinated indebtedness agreement, the terms of such indebtedness must establish that the instrument shall constitute an enforceable liability only to the extent the HMO shall have surplus in excess of contingency reserves as reported in the most recent financial statement filed with the Department of Insurance and only after the HMO has obtained approval of the Director for any payments of interest or any repayments of principal.~~

~~e) Initial minimum capital or any contributed surplus may be used to meet requirements of special contingent reserves as mandated in Section 6 of the Act (Ill. Rev. Stat., 1981, ch. 111 1/2, par. 1406).~~

~~f) Dividends to shareholders may be paid only to the extent that the HMO shall have the surplus in excess of statutory minimums as reported in the most recent financial statement filed with the Department of Insurance and may be paid out of only earned surplus.~~

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(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.80 Financial Reporting

Every entity possessing a Certificate of Authority to transact the business of an HMO ~~a Health Maintenance Organization~~ shall report the financial condition and results of its HMO operations in a form, adopted for the reporting requirements of Section 2-7 ~~7~~ of the Act [215 ILCS 125/2-7] ~~(111. Rev. Stat. 1981, ch. 111 1/2, par. 1407)~~, which shall conform substantially to the form of report adopted by the National Association of Insurance Commissioners, as revised, with such modifications and additions to such form as the Director may deem desirable and necessary to ascertain the condition, affairs, and performance of the HMO.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.100 Solicitation

a) No HMO ~~Health Maintenance Organization~~, or representative thereof, may cause or knowingly permit the use of advertising, solicitation, or any form of evidence of coverage which is untrue, misleading or deceptive.
   1) All information required to be disclosed pursuant to this Part ~~by these rules~~ shall set out conspicuously and in close conjunction with the statements to which such information relates under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the solicitation as to be confusing or misleading.
   2) The format and context of a solicitation of any HMO's ~~Health Maintenance Organization's~~ plan or program shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.
   3) Solicitations shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by employment or by familiarity with insurance medical terminology or health care plans shall not be used unless such words or phrases are otherwise explained in such solicitation.
   4) No solicitation shall omit information or use words, phrases, statements, references, or illustrations if an omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving prospective enrollees as to the nature or extent of any benefit payable, loss covered, premium payable or health care service provided.

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b) A detailed description of all training and educational programs provided to solicitors of the health care plan ~~Health Care Plan~~ or to any person providing marketing ~~Marketing~~ activities shall be submitted to the Director upon application for a Certificate of Authority and any substantive change(s) ~~changes~~, thereafter, in such programs shall be submitted to the Director 15 days prior to the intended effective date of such change.
c) All brochures, media scripts, and any other marketing or advertising materials which an HMO applying for Certificate of Authority plans to use must be filed with the Department of Insurance. Such material must be filed before use and, in the event that such material can obviously not be filed, such as audiovisual presentations, a description of the solicitation activity must be filed.
~~d) A list of producers who will solicit the Health Care Plan, including the names and addresses of such producers shall be submitted to the Director with the Annual Report and any changes thereafter, in such list shall be submitted to the Director within 30 days of such change.~~
d) ~~e)~~ Any advertisement or solicitation shall not directly or indirectly make unfair or incomplete comparisons of policies, plans, or benefits or comparisons of non-comparable plans or policies of other HMO's or insurers, and shall not disparage competitors, their policies or plans, services or business methods and shall not disparage or unfairly minimize a competing method of marketing insurance or health care services.
e) ~~f)~~ No advertisement or marketing material of an HMO shall imply that certification by the Department ~~of Insurance~~ is an endorsement of the HMO.
f) An HMO shall provide its enrollees no later than the time of enrollment, or the time the individual contract or evidence of coverage is issued, lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. Such lists shall disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:

> NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone

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number).

g) Failure to comply with the requirements of this Section shall subject the HMO or its representative to corrective action ~~the sanctions that~~ the Director may order pursuant to ~~impose under authority of~~ Section 4-7 of the Act.

~~h) The HMO shall include in its enrollee handbook or similar material a description of the HMO's grievance procedure, directions for filing a grievance, and "Notice of Availability of the Department."~~

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts

a) Any group contract, evidence of coverage, individual contract, enrollee handbook, enrollment application, identification card or other form which affects the terms and conditions applicable to the subscriber or enrollee in the provision of health care services must be filed with and approved by the Director prior to use in accordance with the requirements of Section 6101.112 of this Part and Section 4-13 of the Act. The HMO shall issue to each subscriber or enrollee a group contract, evidence of coverage, or individual contract. Any conflicting information between the valid current document referenced above issued to the subscriber or enrollee and the current group contract shall be interpreted according to whichever is most beneficial to the subscriber or enrollee. Any such group contract, evidence of coverage, or individual contract shall provide for the rendering of health care services as defined therein for either a specific period of not less than twelve months from the date of issuance or for such period as is otherwise mutually agreed to by the HMO and the group or individual contract holder; and shall provide for renewal on a basis mutually agreed to by both parties, unless the HMO has given thirty-one days written notice of nonrenewal prior to the renewal date of the contract.

b) A detailed statement of any exceptions, exclusions or limitations shall be set forth in the group contract, evidence of coverage, and individual contract for any type of health care service to be excepted. Such exceptions, exclusions or limitations shall appear with the same prominence in the group contract, evidence of coverage and individual contract as any benefit.

c) The group contract, evidence of coverage, and individual contract shall set forth a detailed statement of the terms and conditions of maternity benefits and any related exceptions, exclusions, limitations, co-payments and deductibles. Such ~~However,~~ ~~such~~ exceptions, exclusions, limitations, co-payments and deductibles applicable to prenatal and post-natal care shall be covered no

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differently ~~different~~ than any other covered health care services ~~Health Care Services~~ provided pursuant to the contract, with the exception of ~~however, that~~ a limitation for coverage of routine prenatal care or delivery when ~~where~~ the enrollee is outside the service area against medical advice, except when ~~where~~ the enrollee is outside of the service area due to circumstances beyond her control, may be included in the group contract and evidence of coverage.

d) Entire Contract. The group contract, evidence of coverage and individual contract shall contain a statement that the group contract evidence of coverage and individual contract, all applications, and any amendments thereto shall constitute the entire agreement between the parties. No portion of the charter, by-laws or other document of the HMO shall be part of such a contract or evidence of coverage unless set forth in full in such document or attached thereto.

e) Eligibility Requirements. The group contract, evidence of coverage and individual contract shall contain eligibility requirements indicating the conditions that must be met to enroll in a health care plan, the limiting age for enrollees and eligible dependents including the effects of Medicare eligibility, and a clear statement regarding coverage of newborn children as set forth in Section 4-8 and 4-9 of the Act.

f) Benefits and Services Within the Service Area. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available within the HMO's designated service area.

g) Emergency Care Services. The group contract, evidence of coverage shall contain a specific description of benefits and services available for emergencies 24-hours a day, 7 days a week, including disclosure of any restrictions on emergency care services. No group contract or evidence of coverage shall limit the coverage of emergency services within the service area to those providers having a contract with the HMO.

h) Out of Area Benefits and Services. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available out of the HMO's designated service area.

i) Deductibles and Copayments. An HMO may require copayments of enrollees as a condition for the receipt of specific health care services. Deductibles and copayments shall be the only allowable charge, other than premiums, assessed enrollees. Copayments shall be for a specific dollar amount. Deductibles shall be either for a specific dollar amount or for a specific percentage of the cost of the health care service. No single deductible or copayment for basic health care services may exceed 50% of the usual and customary fee of the service to the HMO and must be waived when in a calendar year, deductibles and copayments paid for the receipt of basic health care services exceed $1500 per ~~150% of the premium paid by or on behalf of the~~ enrollee, or $3000 per family. Deductibles and copayments

applicable to supplemental health care services or pre-existing conditions are ~~shall~~ not be subject to this annual limitation. Nothing within this subsection shall preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments.

j) Pre-existing Conditions. An HMO may impose deductible and copayment pre-existing condition limitations as a condition to receiving health care services. A pre-existing condition shall not be defined more restrictively than a condition for which medical advice or treatment was recommended by a physician or received from a physician within a one year period preceding the effective date of coverage under the health care plan or the existence of symptoms which, in the opinion of a legally qualified physician, would have caused an ordinarily prudent person to seek diagnosis, care or treatment within a one year period preceding the effective date of coverage under the health care plan. Such condition may only be limited for a period not to exceed one year from the effective date of coverage.

k) Cancellation. The group contract, evidence of coverage, and individual contract shall contain the conditions upon which cancellation may be effected by the HMO or the enrollee as set forth in Section 6101.111 of this Part.

l) Reinstatement. The group contract, evidence of coverage, and individual contract shall contain the conditions of the enrollee's right to reinstatement.

m) Grace Period. A group contract or individual contract shall provide for a grace period for the payment of any premium, except the first, during which coverage shall remain in effect if payment is made during the grace period. The grace period for a group contract shall not be less than ten (10) days. The grace period for an individual contract shall not be less than thirty-one (31) days. During the grace period, the HMO shall remain liable for providing the services and benefits contracted for; the subscriber shall remain liable for the payment of the premium for the time coverage was in effect during the grace period and the enrollee shall remain liable for the payment of any applicable share of the premium, for the time coverage was in effect, as well as for any copayments owed.

n) No group contract, or evidence of coverage, or individual contract may be delivered in this state unless the subscriber and/or enrollee is provided written notice required by Section 143c of the Illinois Insurance Code [215 ILCS 5/143c] ~~(Ill. Rev. Stats. 1989, ch. 73, par. 755c)~~.

o) Right to Examine Contract. An individual contract, with the exception of an HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall contain a provision stating that an enrollee who has entered into an agreement with a HMO shall be permitted to return the individual contract within ten days of receiving it and to receive a refund of the premium paid if the

enrollee is not satisfied with the contract for any reason. If the individual contract is returned to the HMO or to its representative through whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for such enrollee or dependent by the HMO during the ten-day examination period, the enrollee shall not be permitted to return the contract and receive a refund of the premium paid.

p) An HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall be delivered to the enrollee at least fifteen days prior to the effective date of the contract. The enrollee shall be permitted to return the HMO Medicare contract prior to the effective date and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason, provided the enrollee complies with the disenrollment procedures of Title XVIII of the Social Security Act, as amended from time to time.

q) Every HMO will provide to every enrollee of the HMO information which generally describes the philosophy, functions and organization of the HMO and related institutions, and specific information which describes the appropriate use of the HMO's services, including a general description of benefits and limitations. The HMO shall include in its enrollee information a description of the HMO's grievance procedure, directions for filing a grievance, and "Notice of Availability of the Department."

r)~~p~~ Every HMO shall provide to every enrollee of the HMO an identification card which ~~identification cards~~ must prominently display the following information:

1) the words "Health Maintenance Organization" or "HMO"; and

2) disclaimer language concerning an enrollee's unauthorized use of providers not selected by the HMO; and

3) a current telephone number for the enrollees to use when health care services are required outside of normal office hours.

s)~~q~~ Enrollment Application. No individual contract shall be issued except upon the signed enrollment application of the enrollee for whom coverage is being sought. Any information or statement of the applicant shall appear on such application in the form of interrogatories by the HMO and answers by the applicant. The enrollee shall not be bound by any statement made within an application for health care coverage unless a copy of such application is attached to the individual contract. Group enrollment applications must be maintained on file by the HMO; otherwise, disputes arising from statements made within such applications will be resolved in the enrollee's favor. Except for those instances involving fraud or material misrepresentation, an HMO's failure to investigate incomplete or conflicting answers on an enrollment application, shall estop the HMO from subsequently denying coverage on the basis of such responses.

t)~~r~~ Coordination of Benefits.

1) HMO's are permitted, but not required to adopt coordination of benefits provisions to avoid over insurance and to provided for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.

2) If an HMO adopts coordination of benefits, the provision must be consistent with the coordination of benefits requirements set forth in 50 Ill. Adm. Code 2009.

3) To the extent necessary for an HMO to meet its obligations as a secondary carrier under 50 Ill. Adm. Code 2009, and where an enrollee has established a credit within the reserve bank, the HMO shall make payments for services that are:

A) received from non-participating providers; or

B) provided outside their services areas; or

C) not covered under the terms of health care plan.

u) ~~s)~~ Dependents-termination of coverage-disability and dependency, proof-application. Every group contract, evidence of coverage, or individual contract which provides that coverage of a dependent person of an enrollee shall terminate upon attainment of the limiting age for dependent persons shall comply with the requirements of Section 4-9.1 of the Act.

v) ~~t)~~ Conversion of coverage.

1) The group contract and evidence of coverage shall contain a conversion provision which provides that each enrollee has the right to convert coverage to an individual or group HMO contract in the following circumstances:

A) upon cancellation of eligibility for coverage under a group contract, or

B) upon cancellation of the group contract, or

C) upon non-renewal of the group contract.

2) The conversion contract shall cover the enrollee and his/her eligible dependents who were covered by the group contract on the date of cancellation or non-renewal of coverage. To obtain the conversion contract, an enrollee shall submit a written application and the application premium payment within 31 days after the date the enrollee's coverage is cancelled.

3) The HMO may require copayments and deductibles under a conversion contract that differ from the group contract.

4) ~~2)~~ A conversion contract shall not be required to be made available if:

A) The cancellation of the enrollee's coverage occurred for any of the reasons listed in Section 6101.111(a) of this Part; or

B) The enrollee is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act; or

C) The enrollee is covered by similar hospital, medical, or surgical benefits under state or federal law; or

D) The enrollee is covered by similar hospital, medical, or surgical benefits under any arrangement of coverage for

individuals in a group whether on an insured or uninsured basis; or

E) The enrollee is covered for similar benefits through individual coverage; or

F) The enrollee has not been continuously covered during the three-month period immediately preceding cancellation of that person's coverage; or

G) The enrollee has moved outside of the service area of the health maintenance organization; or

H) The cancellation of the enrollee's coverage occurred in relation to the HMO being placed in rehabilitation or liquidation proceedings pursuant to Section 5-6 of the Act; or

I) The group contract has been discontinued in its entirety and there is a succeeding carrier providing coverage to the group in its entirety.

5) ~~3)~~ Benefits or coverage shall be considered "similar" if coverage is provided for at least 12 months under comprehensive type medical coverage.

6) ~~4)~~ Notwithstanding subsection (~~4~~2)(C), (D), or (E), or (I) above, if the enrollee or any of his or her covered dependents has a pre-existing condition, and the enrollee is covered by similar hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, and such coverage does not cover pre-existing conditions, then such enrollee may continue conversion coverage for the individual with such pre-existing condition until the enrollee's or dependant's pre-existing condition is covered under the succeeding plan.

7) ~~5)~~ The conversion contract shall provide as a minimum to its enrollees basic health care services.

8) ~~6)~~ The conversion contract shall begin coverage of the enrollee and any dependents formerly covered under the group contract on the date of termination from the group or the former individual contract.

9) ~~7)~~ Coverage shall be provided without requiring evidence of insurability and shall not impose any pre-existing condition limitations or exclusions other than those remaining unexpired under the contract from which conversion is exercised.

10) ~~8)~~ Conversion charge shall be provided for a period of not less than 18 months.

w) ~~u)~~ Discrimination between individuals of the same class in the terms and conditions of such health care plan, or in the amount charged for coverage under a health care plan except where the rate differential is based on sound actuarial principles, or in any other manner whatsoever is prohibited.

x) Grievance Procedure

The group contract, evidence of coverage, and individual contract

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shall set forth a full description of the HMO grievance procedure required by Section 6101.40 of this Part.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.112 Form Filing Requirements

Group contracts, evidences of coverage, individual contracts, enrollment applications or other forms which affect the terms and conditions applicable to the enrollee in the provision of health care services must be filed with the Department pursuant to 50 Ill. Adm. Code 916. If the form is a revised version of a previously approved form, the HMO must provide the number of such previously approved form and the date it was approved by the Department, and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved. as follows:

a) All such forms shall be submitted in duplicate.

b) The enrollment application to be used in connection with the group contract, evidence of coverage or other such form must be made a part of the filing. In addition, the approval date must be given for enrollment application forms previously submitted to and approved by this Department.

c) Each form must be identified by a unique form number located in the lower left hand corner of the first page thereof. When a filing is submitted and consideration is to be given to each individual page within that filing, then the insert pages should be properly identified and the letter of submittal should list each page as a form.

d) Each HMO form filing must be accompanied by a filing letter containing the following information:

1) The name of the form, if any, and identifying form number.

2) If the submission is new, so state.

3) If the form is intended to replace another, give the form number of such form replaced, the date it was approved by the Department, and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.113 Point of Service Plan Requirements

a) The filing as described herein shall be comprised of an HMO filing and an indemnity filing. Such filing shall be coordinated by the HMO. The filing must contain reasonable financial incentives for point of service members to utilize HMO services provided or arranged by the designated HMO primary care physician and shall include:

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1) Copies of all policy forms necessary to implement the point of service product, including the member handbook used to integrate the services provided by the HMO and the benefits provided by the indemnity carrier.

2) Enrollment application and member identification card disclosing the name of both the HMO and indemnity carrier.

3) Solicitation material.

4) Copies of all contracts required by Section 6101.50 of this Part between the HMO and affiliated indemnity carrier detailing their respective responsibilities and obligations in offering a point of service product.

5) The HMO shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the affiliated indemnity carrier will impact on the HMO's rates and underlying utilization assumptions. Such documentation shall be deemed confidential by the Department unless specific authorization is given by the HMO.

6) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment.

7) A comparison of benefits offered by the HMO carrier and the indemnity carrier.

b) Out-of-network claims shall be filed with the HMO. The HMO is responsible for coordinating payment of all claims.

c) Covered services rendered by a participating physician without proper authorization shall be covered at the out-of-network benefit level.

d) For purposes of coordination of benefits, the two policies comprising the point of service product shall be considered to be one policy.

e) For purposes of conversion and State continuation, the HMO shall provide each enrollee who has a POS plan the right to convert to either an HMO option or indemnity option. The HMO may, but is not required to, offer the enrollee the right to continue under a POS option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, then such plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.

(Source: Added at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.120 Internal Security Standards and Fidelity Bonds

The standards and all provisions set forth in Part 904 entitled "Illinois Department of Insurance Rule "Internal Security Standard and Fidelity Bonds" (50 Ill. Adm. Code 904) shall apply to HMO's Health Maintenance Organizations.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.130 Basic Health Care Services

The provision of Basic Health Care Services shall not discriminate against any class of physician. The following minimum standards shall meet the requirements for Basic Health Care Services, provided that such services are medically necessary as determined by the enrollee's primary care physician; and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director:

a) Physician services including primary care, consultation, referral, surgical, anesthesia or other as needed by the enrollee in any level of service delivery. Such services need not include organ transplants unless specifically authorized by a primary care physician and approved by the HMO's Medical Director;

b) Outpatient diagnostic imaging, pathology services and radiation therapy;

c) 120 days of non-mental health inpatient services per year including all professional services, medications, surgically implanted devices and supplies used by the enrollee while an inpatient;

d) Emergency services for accidental injury or emergency illness 24 hours per day, and 7 days per week. Such emergency services are covered benefits inside and out of the plan's service area. Such emergency treatment shall include outpatient visits and referrals for emergency mental health problems;

e) Maternity care including prenatal and post-natal care and care for complication of pregnancy of mother and care with respect to a newborn child from the moment of birth which shall include the care and treatment of illness, injury, congenital defects, birth abnormalities and premature birth;

f) Blood transfusion services, processing and the administration of whole blood and blood components and derivatives;

g) Preventive ~~Preventative~~ health services as appropriate for the patient population including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including but not limited to allergy injections and allergy serum. Such health evaluation program shall include at least periodic physical examinations and medical history, hearing and vision testing or screening, routine laboratory testing or screening, blood pressure testing, and uterine cervical cytological testing, and low dose mammography testing as required by Section 4-6.1 of the Act~~,~~

h) Ten (10) days inpatient mental health care per year. Care in a day hospital, residential non-hospital or intensive outpatient mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. Twenty (20) individual outpatient mental health care visits per enrollee per year, as appropriate for evaluation, short-term treatment and crisis

intervention services. Group outpatient mental health care visits may be substituted on a two-to-one basis for individual mental health care visits as deemed appropriate by the primary care physician;

i) Alcoholism and Drug Abuse

1) Diagnosis, detoxification and treatment of the medical complications of the abuse of or addiction to alcohol or drugs on either an inpatient or outpatient basis. Inpatient hospital services are subject to subsection (c).

2) Rehabilitation services on an inpatient basis, for up to ten (10) days inpatient care per year. Care in a day hospital, residential non-hospital or intensive outpatient treatment mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. Twenty (20) individual outpatient care visits per enrollee per year as appropriate for evaluation, short-term treatment, and crisis intervention services. Group outpatient care visits may be substituted on a two-to-one basis for individual outpatient visits as deemed appropriate by the primary care physician. Prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of Basic Health Care Services;

j) Outpatient Rehabilitative therapy (including but not limited to: speech therapy, physical therapy, and occupational therapy directed at improving physical functioning of the member) up to sixty (60) treatments per year for conditions which are expected to result in significant improvement within two (2) months as determined by the primary care physician and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.140 General Provisions

~~a)~~ Every HMO, having been declared to be an entity to be regulated for the Public Good, shall take care to conduct all of its affairs within the declared Public Policy on Fair Employment. The Congress of the United States and the General Assembly of Illinois have stated that discrimination in employment based upon race, color, religion, sex or national origin is illegal. Every HMO will handle all matters relating to employment in the manner required by Section 2-102 of the Illinois Human Rights Act (775 ILCS 5/2-101 et seq.), ~~the "Fair Employment Practices Act (Ill. Rev. Stats. 1981, Ch. 48, par. 851 et seq.), as amended,~~ and Title VII of the Civil Rights Act of 1964, (42 U.S.C. 2000d et seq.) or any rule or regulation promulgated pursuant to either.

~~b) Every HMO will provide to every subscriber of the HMO information which generally describes the philosophy, functions and organization~~

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~~of the HMO and related institutions, and specific information which describes the appropriate use of the HMO's services.~~

(Source: Amended at 20 Ill. Reg. 10639 effective JUL 25 1996)

Section 6101.141 Producer Licensing Requirements

a) HMO producer means an individual who solicits, negotiates, effects, procures, renews or continues enrollment in an HMO. The term HMO "producer" shall not include:
   1) any regular salaried officer or employee of an HMO or of a licensed HMO producer, who devotes substantially all of his or her time to activities other than the solicitation of applications for HMO membership and receives no commission or other compensation directly dependent upon the business obtained and who does not solicit or accept from the public applications for membership;
   2) employers or their officers or employees or the trustees of any employee benefit plan to the extent that such employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits involving the use of membership in an HMO; provided that such employers, officers, employees, or trustees are not in any manner compensated directly or indirectly by the HMO issuing such HMO membership;
   3) banks or their officers and employees to the extent that such banks, officers, and employees collect and remit charges by charging same against accounts of depositors on the orders of such depositors.

b) No persons ~~person~~ may act as or hold themselves ~~himself~~ out to be an HMO producer ~~after the effective date of this amendment~~ unless duly licensed in accordance with the requirements of this Part. ~~An HMO producer doing business in this State on the effective date of this amendment shall apply for an HMO producer's license within 90 days thereafter.~~

c) An individual applying for an HMO producer's license shall make application on a form specified by the Department and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application the Director shall find that the individual:
   1) Is at least 18 years of age,
   2) Has not committed any act which is grounds ~~a ground~~ for denial, suspension or revocation pursuant to Section 505.1 of the Illinois Insurance Code [215 ILCS 5/505.1], ~~; Ill. Rev. Stat. 1989, ch. 73, par. 1065.52-1~~)
   3) Has successfully passed the Class 1(b) examination as required by

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Section 494.1 of the Illinois Insurance Code [215 ILCS 5/494.1]. ~~(Ill. Rev. Stat. 1989, ch. 73, par. 1065.41-1)~~

d) The provisions of Article XXXI of the Illinois Insurance Code [215 ILCS 5/490.1 et seq.] ~~(Ill. Rev. Stat. 1989, ch. 73, pars. 1065.37-1 et seq.)~~ and the rules promulgated thereunder (50 Ill. Adm. Code: Chapter I, Subchapter ii) shall be applicable to all HMO producers.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.142 Limited Insurance Representative Requirements - Public Aid and Medicare Enrollers

a) No person may enroll recipients of Public Aid or Medicare in an HMO, either personally or by mail, unless such person is duly licensed by the Director pursuant to this Part.

b) The provisions of Article XXXI of the Illinois Insurance Code [215 ILCS 5/490.1 et seq.] ~~(Ill. Rev. Stat. 1989, ch. 73, pars. 1065.37-1 et seq.)~~ and the regulations promulgated thereunder (50 Ill. Adm. Code: Chapter I, Subchapter ii) shall be applicable to all HMO limited insurance representatives and HMO producers.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

Section 6101.150 Severability

If any Section, term or provision of this Part ~~these Rules and Regulations~~ shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this Part ~~these Rules and Regulations~~, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

(Source: Amended at 20 Ill. Reg. 10639, effective JUL 25 1996)

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1) Heading of the Part: Pretreatment Programs

2) Code Citation: 35 Ill. Adm. Code 310

3) Section Numbers: 310.107 — Amended Action: Amended

4) Statutory Authority: 415 ILCS 5/13, 13.3 and 27

5) Effective Date of Amendments: July 24, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? Yes

8) Date filed in Board's principal office: Order adopted in R96-12 on July 18, 1996.

9) Notice of Proposal Published in Illinois Register: May 3, 1996, 20 Ill. Reg. 6126

10) Has JCAR issued a Statement of Objections to these rules? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the IAPA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the IAPA, it is not subject to first notice or to second notice review by JCAR.

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any other amendments pending in this Part? No

15) Summary and Purpose of Amendments: Section 13.3 of the Act requires the Board to adopt regulations which are "identical in substance" with federal regulations promulgated by the United States Environmental Protection Agency (USEPA) to implement the pretreatment requirements of Sections 307 and 402 of the Clean Water Act. The proposed amendments adopt the amendments to the pretreatment regulations adopted by the USEPA between

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July 1, 1995 and December 30, 1995.

The USEPA amended its guidelines for testing under the Clean Water Act (40 CFR 136) adding additional testing methods. Section 310.107 of the Illinois pretreatment regulations incorporates 40 CFR 136. The Board updates the incorporation of 40 CFR 136 in Section 310.107 to include the amendments as adopted by the USEPA.

A more detailed description is contained in the Board's opinion of July 18, 1996, in R96-12, which is available from the address below.

16) Information and questions regarding this adopted amendment shall be directed to:

Diane F. O'Neil, Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
312-814-6062

Requests for copies of the July 18, 1996 opinion should be addressed to the Clerk of the Board at the above address and should reference Docket R96-12.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 310
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

SUBPART B: PRETREATMENT STANDARDS

SUBPART C: REMOVAL CREDITS

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SUBPART D: PRETREATMENT PERMITS

SUBPART E: POTW PRETREATMENT PROGRAMS

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SUBPART F: REPORTING REQUIREMENTS

Section
310.601 Definition of Control Authority
310.602 Baseline Report
310.603 Compliance Schedule
310.604 Report on Compliance with Deadline
310.605 Periodic Reports on Compliance
310.606 Notice of Potential Problems
310.610 Monitoring and Analysis
310.611 Requirements for Non-Categorical Users
310.612 Annual POTW Reports
310.613 Notification of Changed Discharge
310.621 Compliance Schedule for POTW's
310.631 Signatory Requirements for Industrial User Reports
310.632 Signatory Requirements for POTW Reports
310.633 Fraud and False Statements
310.634 Recordkeeping Requirements
310.635 Notification of Discharge of Hazardous Waste

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section
310.701 Definition of Requester
310.702 Purpose and Scope
310.703 Criteria
310.704 Fundamentally Different Factors
310.705 Factors which are Not Fundamentally Different
310.706 More Stringent State Law
301.711 Application Deadline
310.712 Contents of FDF Request
310.713 Deficient Requests
310.714 Public Notice
310.721 Agency Review of FDF Requests
310.722 USEPA Review of FDF Requests

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section
310.801 Net/Gross Calculation by USEPA

SUBPART I: UPSETS

Section
310.901 Definition
310.902 Effect of an Upset
310.903 Conditions Necessary for an Upset
310.904 Burden of Proof
310.905 Review ability of Claims of Upset

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310.906 User Responsibility in Case of Upset

SUBPART J: BYPASS

Section
310.910 Definition
310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements
310.912 Notice
310.913 Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

Section
310.920 General
310.921 Procedures
310.922 Substantial Modifications

AUTHORITY: Implementing and authorized by Sections 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective JUL 24 1996.

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

a) The following publications are incorporated by reference:
   1) The consent decree in NRDC v. Costle, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).
   2) Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.

b) The following provisions of the Code of Federal regulations are incorporated by reference:
   40 CFR 2.302 (1994)
   40 CFR 25 (1994)
   40 CFR 122, Appendix D, Tables II and III (1994)
   40 CFR 128.140(b) (1977)
   40 CFR 136 (1995 1994), as amended at 60 Fed. Reg. 39586, August 2, 1995, 60 Fed. Reg. 44670, August 28, 1995 and 60 Fed. Reg.

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~~53529, October 16, 1995 (7160, April 4, 1995~~
~~40 CFR 403 (1995 1994), as amended at 60 Fed. Reg. 33926 effective June 29, 1995~~
40 CFR 403, Appendix D (1994)

c) The following federal statutes are incorporated by reference:
   1) Section 1001 of the Criminal Code (18 U.S.C. 1001) as of July 1, 1988;
   2) Clean Water Act (33 U.S.C. 1251 et seq.) as of July 1, 1988;
   3) Subtitles C and D of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) as of July 1, 1988.

d) This Part incorporates no future editions or amendments.

(Source: Amended at 20 Ill. Reg. 10671, effective ~~JUL 24 1996~~)

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1) Heading of the Part: Illinois Physical Therapy Act

2) Code Citation: 68 Ill. Adm. Code 1340

3) Section Numbers: Adopted Action:

1340.15	Repealed
1340.20	Amendment
1340.30	Amendment
1340.40	Amendment
1340.50	Amendment
1340.60	Amendment

4) Statutory Authority: The Illinois Physical Therapy Act [225 ILCS 90]

5) Effective Date of Amendments: July 26, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: August 1, 1996

9) Date Notice of Proposal Published in Illinois Register: January 19, 1996, at 20 Ill. Reg. 1103.

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version:

In response to concerns expressed about whether internationally educated physical therapists would be eligible to practice in Illinois under the Proposed Amendments, the Department removed Section 1340.20(a)(1)(C) from the proposed changes. This was language that required applicants to get their physical therapy education from a school that admits only students who have completed a minimum of 60 semester hours or its equivalent of college level courses. That could have made graduates of most foreign programs ineligible to practice in Illinois, which was not the intent of the proposed rulemaking. Substitute language requires that the applicant's curriculum shall have a minimum of 120 semester hours which shall include a minimum of 50 semester hours credit in general education.

References to "physical therapy assistant" were changed to "physical therapist assistant".

Nonsubstantive changes also were made to conform to style and improve clarity.

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12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments:

This rulemaking updates the rules for the Illinois Physical Act to bring them up to date with the sunset rewrite of the Act, which became effective January 1, 1996.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1340
ILLINOIS PHYSICAL THERAPY ACT

Section
1340.15 Application for Licensure Under Section 8.1 of the Act (Grandfather) (Repealed)
1340.20 Approved Curriculum ~~Programs~~
1340.30 Application for Licensure on the Basis of Examination
1340.40 Examination
1340.50 Endorsement
1340.55 Renewals
1340.60 Restoration
1340.65 Unprofessional Conduct
1340.66 Advertising
1340.70 Granting Variances

AUTHORITY: Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 60(7) of the Civil Administrative Code of Illinois. [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 6500, effective June 3, 1981; codified at 5 Ill. Reg. 11048; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 9 Ill. Reg. 1906, effective January 28, 1985; recodified from Chapter I, 68 Ill. Adm. Code 340 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1340 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2959; amended at 12 Ill. Reg. 8030, effective April 25, 1988; amended at 15 Ill. Reg. 5254, effective March 29, 1991; emergency amendment at 15 Ill. Reg. 11503, effective July 30, 1991, for a maximum of 150 days; emergency expired December 27, 1991; amended at 16 Ill. Reg. 3175, effective February 18, 1992; amended at 17 Ill. Reg. 14606, effective August 27, 1993; amended at 20 Ill. Reg. 10678, effective JUL 26 1996.

Section 1340.15 Application for Licensure Under Section 8.1 of the Act (Grandfather) (Repealed)

~~Any person seeking licensure as a physical therapist assistant under Section 8.1 of the Illinois Physical Therapy Act (the Act) (P.A. 86-1396) effective July 1, 1991) shall file an application with the Department of Professional Regulation (the "Department") on forms provided by the Department. Such application shall be postmarked no later than midnight December 31, 1991 and shall include the following:~~

~~a) Education/Experience~~

~~i) Certification of graduation from an approved 2 year college level~~

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~~physical therapist assistant program on or before July 1, 1991;~~ or

~~2) Verification, on forms provided by the Department, of at least 2 years of experience completed on or before July 1, 1991, as a physical therapist assistant under the direct supervision of a licensed physical therapist; and certification of a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, Parklawn Building, 5600 Fisher Lane, Rockville, Md. 20857, prior to January 1, 1990.~~

~~b) A complete work history.~~

~~c) The required fee specified in Section 32(1) of the Act.~~

~~d) Certification, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:~~

~~1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;~~

~~2) A description of the examination in that jurisdiction;~~

~~3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.~~

(Source: Repealed at 20 Ill. Reg. 10678, effective ~~JUL 26 1996~~)

Section 1340.20 Approved Curriculum Programs

a) The Department shall, upon the recommendation of the Physical Therapy Licensing and Disciplinary Committee (the "Committee"), approve an applicant's a physical therapy curriculum program if it meets the following minimum criteria:

1) The school from which the applicant was graduated:

A) Is ~~is~~ legally recognized and authorized by the jurisdiction in which it is located to confer a physical therapy degree; and

~~2)~~B) Has a faculty that ~~which is comprised of~~ comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions; and

C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

~~2)~~3) The applicant's curriculum shall have a minimum of 120 semester hours which shall include a minimum of 50 semester hours credit in general education and ~~Has an integrated curriculum plan which includes~~ at least the following subject areas in professional

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education (57-61 semester hours required):

A) Basic Health Sciences
- i) Anatomy
- ii) Physiology
- iii) Pathology
- iv) Kinesiology
- v) Neurology
- vi) Psychology

B) Clinical Sciences to include, but not limited to the major areas of:
- i) Medicine
- ii) Surgery
- iii) Physical therapy theory and application including therapeutic exercise, evaluation procedures physical agents, mechanical modalities, electrotherapy, massage, orthotics and prosthetics, and professional issues

C) Clinical Education - a minimum of 800 clock hours.

~~4) Admits only students who have completed a minimum of sixty (60) semester hours or its equivalent of college level courses;~~

~~5) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.~~

b) The Department shall, upon the recommendation of the Committee, approve an applicant's a physical therapist assistant curriculum program if it meets the following minimum criteria:

1) The school from which the applicant was graduated:

A) Is ~~is~~ legally recognized and authorized by the jurisdiction in which it is located to offer a 2 year physical therapist assistant curriculum; program;

~~2)~~B) Has a faculty that comprises ~~which is comprised of~~ a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions;

C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

~~2)~~3) The applicant's curriculum ~~Has an integrated curriculum plan which~~ includes at least the following subject areas in professional education (29-31 semester hours required):

A) Basic Health Sciences
- i) Anatomy and physiology
- ii) Pathology
- iii) Psychology
- iv) Kinesiology

B) Clinical Sciences to include, but not be limited to, the

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major areas of:
i) Medicine and surgery
ii) Physical therapist assistant theory and application, including gross evaluation techniques, physical agents, mechanical modalities, therapeutic exercise, electrotherapy, massage, and professional issues.

C) Clinical Education - a minimum of 600 clock hours.

~~4) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.~~

c) In determining whether an applicant's curriculum a program should be approved, the Department shall take into consideration, but not be bound by, accreditation of the applicant's school by the Commission on Accreditation in Physical Therapy Education ~~American Physical Therapy Association (APTA)~~.

d) Recommendation of Approval
1) The Department, upon the recommendation of the Committee, has determined that the curricula of all physical therapy and physical therapist assistant programs accredited by the Commission on Accreditation in Physical Therapy Education as of January 1, 1996, ~~APTA as of July 1, 1991,~~ meet the minimum criteria set forth in subsections (a) and (b) above and are, therefore, approved.
2) In the event of a decision by the above accrediting body to suspend, withdraw or revoke accreditation of any physical therapy or physical therapist assistant program, the Committee shall proceed to evaluate the curriculum program and either approve or disapprove it in accordance with subsections (a) and (b) above.

e) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.

f) An individual who is deficient in course work may complete the required course(s) at a regionally accredited college or university. The individual will be required to submit a transcript from the program indicating successful completion of the course and a course description.

g) On or after August 1, 1996, any person applying for licensure shall have his/her curriculum reviewed on an individual basis as set forth in this Section. All programs previously approved by the Department will no longer be considered approved.

~~e) In addition to the approved programs referred to in subsection (d)(1) above, the Department, upon recommendation of the Committee, has determined it appropriate that each physical therapy and physical therapist assistant program from which graduates have been issued licensure in Illinois since July 1, 1981, be deemed an approved program for purposes of meeting the minimum criteria set forth in~~

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~~subsections (a) and (b) above, retrospectively and until such time as the Department, upon the recommendation of the Committee, determines that the program should be disapproved.~~

~~f) Reevaluation of a Disapproved Program~~
~~1) Any program disapproved for failure to satisfy the minimum requirements for subsections (a) and (b) may be reevaluated at the discretion of the Department for good cause shown. In determining the existence of good cause, the Department shall consider whether incorrect or insufficient information was provided during the original evaluation. If the program was disapproved based on the fact that the Department has not received sufficient information concerning the program, it shall be reevaluated upon the request of any applicant who can present evidence that sufficient information for evaluation is now available. The Committee shall evaluate the submitted materials and make a recommendation to the Director for approval or disapproval of the program. The Director shall accept or reject the recommendation of the Committee. Should the Director reject the recommendation of the Committee, the Committee shall be notified of such rejection. The Department shall notify the applicant, in writing, of the approval or disapproval of the program.~~
~~2) The applicant at whose behest a reevaluation is conducted shall be required to submit such documentation as is necessary to substantiate that program's assertions. In addition, the Committee may request clarification or amplification of any documentation so submitted when additional clarification will aid in the reevaluation decision. Unless the Committee at its discretion grants an extension of time on its own motion or at the request of the applicant (an extension of time will be granted when such an extension is necessary in order to effect a fair, equitable and complete reevaluation), it shall, no later than six months from the date of the request for reevaluation, either approve the program, disapprove the program for failure to satisfy the minimum requirements of subsection (a) or (b), or disapprove the program based on the fact that the Committee has not received sufficient information concerning the program.~~
~~3) Any applicant for licensure whose application was complete on or prior to the determination by the Department that a previously approved program be disapproved will be issued a license provided he/she is otherwise qualified.~~

~~g) Reevaluation of An Approved Program~~
~~1) Any programs that have been approved by the Committee under subsections (a) or (b) shall be reevaluated at least once every 10 years.~~
~~2) Notwithstanding any other provision of this Section, the Committee may reevaluate any approved program of physical therapy education at any time if it has reason to believe that the~~

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~~program---has---failed---to---continue---to---satisfy---the---minimum requirements of subsections (a) and (b) or that its decision was based upon false, deceptive or incomplete information.~~

~~3) If the Committee has reason to believe there has been any fraud or dishonesty in the furnishing of any documentation for the evaluation of a program, it shall refer such matter to appropriate Department personnel for any disciplinary action which might be appropriate under the Act.~~

~~4) A physical therapy program whose approval is being reevaluated by the Department shall be given at least 15 days written notice prior to any recommendation by the Committee and may either submit written comments or request a hearing before the Committee in accordance with 68 Ill. Adm. Code 1110.~~

~~h) The Committee shall authorize the publication of a list of all programs approved or disapproved. Such lists shall be provided to any person or organization making written request.~~

~~i) Program Evaluation~~

~~1) An applicant from a physical therapy or physical therapy assistant program that has not been evaluated shall be requested by the Department to provide documentation concerning the criteria of this Section.~~

~~2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Department will evaluate the program based on all documentation received from the school and any additional information the Department has received which it deems to be reliable.~~

(Source: Amended at 20 Ill. Reg. 10678, effective JUL 26 1996)

Section 1340.30 Application for Licensure on the Basis of Examination

a) An applicant for a physical therapist license by examination shall file an application on forms supplied by the Department ~~at least 60 days prior to an examination date~~. The application shall include:

1) A complete work history indicating all employment since graduation from a physical therapy program;

~~2) Certification of successful completion of at least 60 semester hours or its equivalent with courses in the biologically physical and social sciences at an accredited college or university;~~

2)~~3)~~ ~~Either:~~ A) Certification of successful completion of a physical therapy program, signed by the Director of the Physical Therapy Program or other authorized university official and bearing the seal of the university, which meets the requirements set forth in Section 1340.20 of this Part; or

~~B) Certification that the applicant is a full time student in the final term of an approved physical therapy program~~

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~~This certification must be signed by the director or registrar of the applicant's physical therapy program (certification of graduation shall be received by the Department prior to the applicant's being issued a license);~~ and

3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and

4) The required fee specified in Section 32(1) and (2) of the Act.

b) An applicant for a physical therapist assistant license by examination shall file an application on forms supplied by the Department ~~at least 60 days prior to an examination date~~. The application shall include:

1) A complete work history indicating all employment since graduation from a physical therapist assistant program;

2) Either:

A) Certification of graduation from a ~~an approved~~ 2 year college-level physical therapist assistant program signed by the director of the Physical Therapy Program or other authorized school official and bearing the seal of the school which meets the requirements set forth in Section 1340.20 of this Part; or

B) Certification that the applicant is a full-time student in his/her final term of ~~a an approved~~ 2 year college-level physical therapist assistant program with a curriculum that meets the requirements set forth in Section 1340.20 of this Part (certification ~~Certification~~ of graduation shall be received by the Department prior to the applicant's being issued a license); ~~and~~

3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English; and

4)~~3~~ The required fee specified in Section 32(1) and (2) of the Act.

~~c) Applicants for a physical therapy assistant license who can document at least two years of experience as a physical therapist assistant under the direct supervision of a licensed physical therapist may be licensed as a physical therapist assistant without taking the~~

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~~Department's examination if they submit a completed application, the fee required by Section 32(b), and certification of a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service prior to January 1, 1970.~~

c) ~~d)~~ If supporting documentation for the application is not in English, a certified translation must be included.

d) A graduate of a physical therapy or physical therapist assistant program outside the United States or its territories shall have his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.

e) An applicant shall have 60 days after approval of the application to take the examination. If the examination is not taken within those 60 days, the examination fee is forfeited and the applicant shall resubmit the required examination fee to Continental Testing Services, Inc. An applicant who fails to take the examination within 60 days shall forfeit his/her right to work as a physical therapist assistant until the examination is passed.

~~e)~~ f) If the applicant has ever been licensed/registered in another state or territory of the United States, he/she shall also submit a certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:

1) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license;

2) A description of the examination in that jurisdiction;

3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

g) ~~f)~~ An applicant for a license, who has successfully completed the examination recognized by the Department in another jurisdiction but who has not been licensed in that jurisdiction, shall file an application in accordance with subsection (a) or (b) above and have the examination scores submitted to the Department by the reporting entity.

h) ~~g)~~ If the Department has ~~reasonable~~ questions or doubts with respect to the documentation or accuracy of any of the matters set forth in the application, the applicant will be required to appear before the Committee and/or provide such additional information as necessary.

i) ~~h)~~ If the applicant has been determined eligible for licensure except for passing of the examination, the applicant shall be issued a letter of authorization which allows him/her to practice under supervision in accordance with Section 2 of the Act. Supervision shall constitute the presence of the licensed physical therapist on site to provide supervision. The applicant shall not begin practice as a physical therapist or physical therapist assistant, license pending, until the letter of authorization is received from the Department.

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(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1340.40 Examination

a) The examination for a physical therapist license shall be the Federation of State Boards of Physical Therapy examination for physical therapists.

b) The examination for a physical therapist assistant license shall be the Federation of State Boards of Physical Therapy examination for physical therapist assistants.

c) The passing grade on the physical therapy and physical therapist assistant examination shall be a scaled score of 600. The scores shall be submitted to the Department from the testing entity.

d) An applicant who has 3 ~~three~~ failures of the examination shall be ineligible to retake the examination until such time as he/she submits certification of remedial training ~~education~~ on forms supplied by the Department, to the Committee that, subsequent to the third failure, the applicant has successfully completed: ~~1)~~ a structured clinical training program ~~A course of clinical education~~ of not less than 3 ~~three~~ months on a full-time basis. The training shall be under the direct, on site, personal supervision of a licensed physical therapist, as approved by the Committee. ~~; or~~

~~2) A course of study of not less than forty eight (48) classroom hours in an approved program of physical therapy; or~~

~~3) Not less than three months of full time, not for pay on site training supervised by a licensed physical therapist in a clinical setting in Illinois. A signed letter by the supervisor shall be submitted to the Department to verify training.~~

e) Any person licensed in Illinois as a physical therapist or physical therapist assistant shall not be admitted to the examination. However, in no way shall this provision limit the Department's ability to require reexaminations for restoration or enforcement purposes.

f) The provisions of this Section shall apply to all applicants regardless of where the applicant is in the application process.

(Source: Amended at 20 Ill. Reg. 10678, effective JUL 26 1996)

Section 1340.50 Endorsement

a) An applicant who is currently licensed under the laws of another state or territory of the United States and who wishes to be licensed as a physical therapist or physical therapist assistant by endorsement, shall file an application with the Department, on forms provided by the Department, which shall include:

1) Certification, on forms provided by the Department, of successful completion of an approved physical therapy or physical therapist

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assistant program in accordance with Section 1340.20;

2) Certification from the state or territory of original licensure and the state in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains record of any disciplinary actions taken or pending, and the applicant's license number;

3) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score 50 for applicants who apply after January 1, 1996, who graduated from a physical therapy program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the physical therapy program from which the applicant graduated was taught in English. The Department may waive the TOEFL and TSE examination for individuals who are licensed and have been actively practicing in another jurisdiction for 3 years prior to the date of application for licensure in Illinois;

4) ~~3~~ A report of the applicant's examination record forwarded directly from the test reporting service;

5) ~~4~~ Complete work history since graduation from the physical therapy or physical therapist assistant program; and

6) ~~5~~ The required fee specified in Section 32 of the Act.

b) A graduate of a physical therapy or physical therapy assistant program outside the United States or its territories shall have his/her degree validated, by a credentialing agency at the applicant's expense, as equivalent to a physical therapy degree conferred by a regionally accredited college or university in the United States.

~~b) The Department may, in individual cases, upon recommendation of the Committee, waive the written physical therapy or physical therapist assistant examination set forth in Section 1340.40 for an applicant for endorsement, after full consideration of his/her physical therapy education, training and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to physical therapy, and any other attribute which the Committee accepts as evidence that the applicant has outstanding and proven ability in physical therapy.~~

c) The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act.

d) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

e) When an applicant for licensure by endorsement as a physical therapist

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or physical therapist assistant is notified in writing by the Department that the application is complete, the applicant may practice in Illinois for one year or until licensure has been granted or denied, whichever period of time is lesser, as provided in Section 2(4) of the Act.

(Source: Amended at 20 Ill. Reg. 10678, effective JUL 26 1996)

Section 1340.60 Restoration

a) A person applying for restoration of a license which has expired or been placed on inactive status for more than 5 ~~five~~ years shall file an application with the Department along with the required fee and shall do one of the following:

1) Submit certification of current licensure from another state or territory completed by the appropriate state board, and show proof of current active practice; or

2) Submit an affidavit attesting to military service as provided in Section 15 of the Act. If application is made within 2 ~~two~~ years of discharge, and if all other provisions of Section 15 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees; or

3) Pass the examination set forth in Section 1340.40; or

4) Submit evidence of recent attendance at educational programs in physical therapy, including attendance at college level courses, professionally oriented continuing education classes, special seminars, or any other similar program, or evidence of recent related work experience to show that the applicant has maintained competence in his/her field. The Department will accept:

A) For an applicant whose license has lapsed 5 ~~6~~ to 10 years, 160 ~~80~~ contact hours of clinical training under the supervision of a licensed physical therapist or 20 ~~10~~ hours of continuing education relating to the clinical aspects of ~~in~~ physical therapy or any combination thereof approved by the Committee.

B) For an applicant whose license has lapsed for 10 years or more, 320 ~~160~~ contact hours of clinical training under the supervision of a licensed physical therapist or 40 ~~20~~ hours of continuing education relating to the clinical aspects of ~~in~~ physical therapy, or any combination thereof approved by the Committee.

b) A person applying for restoration of a license that which has expired for ~~less than~~ 5 ~~five~~ years or less shall file an application with the Department and submit $10 plus all lapsed renewal fees as specified in Section 32 of the Act.

c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the

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Department or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:

1) Provide such information as may be necessary; and/or
2) Appear for an interview before the Committee to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts of information. Upon the recommendation of the Committee and approval by the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

(Source: Amended at 20 Ill. Reg. 10678, effective JUL 26 1996)

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NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Podiatric Medical Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1360

3) Section Numbers: 1360.85 — Adopted Action: Amendment

4) Statutory Authority: The Podiatric Medical Practice Act of 1987 [225 ILCS 100].

5) Effective Date of Amendments: July 26, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: August 1, 1996

9) Date Notice of Proposal Published in Illinois Register: May 17, 1996, at 20 Ill. Reg. 6655

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version: No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments:

This rulemaking amends the advertising Section to clarify that a podiatric physician may advertise certification by a certifying specialty board approved by the Podiatric Medical Licensing Board or by the Council on Podiatric Medical Education.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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217/785-0813 Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1360
PODIATRIC MEDICAL PRACTICE ACT OF 1987

Section
1360.10 Statutory Authority (Repealed)
1360.20 Approved Colleges of Podiatry
1360.30 Application for Examination
1360.40 Examination
1360.45 Application for Licensure on the Basis of Examination
1360.50 Endorsement
1360.55 Renewals
1360.60 Restoration
1360.65 Temporary Licenses
1360.70 Continuing Education
1360.75 Visiting Professor Permits
1360.80 Definition of "Human Foot" (Repealed)
1360.85 Advertising
1360.86 Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions
1360.90 Granting Variances
APPENDIX A Curriculum Requirements (Repealed)
APPENDIX B Clinical Training Requirements (Repealed)

AUTHORITY: Implementing the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 4 Ill. Reg. 50, p. 58, effective December 3, 1980; codified at 5 Ill. Reg. 11053; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 915, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8402, effective July 2, 1982; amended at 7 Ill. Reg. 7668, effective June 15, 1983; amended at 9 Ill. Reg. 5377, effective April 4, 1985; transferred from Chapter I, 68 Ill. Adm. Code 160 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1360 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2962; amended at 13 Ill. Reg. 4234, effective March 21, 1989; amended at 14 Ill. Reg. 701, effective December 28, 1989; amended at 16 Ill. Reg. 13281, effective August 18, 1992; amended at 18 Ill. Reg. 16433, effective October 21, 1994; amended at 20 Ill. Reg. 10692, effective JUL 26 1996.

Section 1360.85 Advertising

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a) If an advertisement is communicated to the public over television or radio, it shall be prerecorded and approved for broadcast by the podiatric physician, and a recording of the actual transmission, including videotape, shall be retained for at least 3 years by the podiatric physician.

b) A podiatric physician may incorporate as a professional service corporation in accordance with the Professional Service Corporation Act [805 ILCS 10] ~~111. Rev. Stat. 1987, ch. 32, par. 415-1 et seq.~~ under a fictitious or an assumed name; however, all advertisements for podiatric services to be performed by members or employees of the corporation must comply with the following:

1) A podiatric physician licensed and practicing in Illinois shall be designated at each practice location for the corporation and shall assume responsibility for all advertising in Illinois.
2) The name, office address and office phone number of the designated podiatric physician shall appear in all advertising for the corporation.
3) The name(s) of the owner(s) of the corporation, if other than the designated podiatric physician(s), shall appear in all advertising for the corporation.
4) A list of all podiatric physicians employed by the corporation who perform podiatric services shall be prominently displayed at the location where they practice.
5) Any advertisement which contains the name(s) of podiatric physician(s) employed by the corporation shall include at least one of the following terms to describe each podiatric physician's licensure: podiatric physician, doctor of podiatric medicine, podiatrist, foot specialist or chiropodist.

c) A podiatric physician not incorporated in accordance with the Professional Service Corporation Act [805 ILCS 10] ~~111. Rev. Stat. 1987, ch. 32, par. 415-1 et seq.~~ shall identify himself/herself by the use of the name in which the ~~his~~ license to practice is ~~was~~ issued and shall include at least one of the following terms to describe his/her licensure: podiatric physician, doctor of podiatric medicine, podiatrist, foot specialist or chiropodist. This name and designation shall appear in all forms of advertising, in whatever medium conveyed.

d) A podiatric physician may advertise certification by a certifying specialty board approved by the Podiatric Medical Licensing Board or by the Council on Podiatric Medical Education. Approvals granted by the Podiatric Medical Licensing Board shall be subject to review and reconsideration every 2 years. In approving a certifying specialty board, the Podiatric Medical Licensing Board shall determine that the specialty board has met, at a minimum, the following criteria:

1) The certifying specialty board requires passage of an examination appropriately designed to test the applicant's knowledge of the area of specialty in order to obtain certification. The testing standards of the certifying specialty board are established prior

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to the test and are based on standards of acceptable psychometric validity and reliability;
2) The certifying specialty board requires appropriate educational and experience standards in order to obtain certification and grants or denies certification based on objective performance, skill, knowledge and merit of the candidate; and
3) The certifying specialty board shall be approved by an appropriate national accrediting agency for the certification of professional programs at least 2 years prior to application to the Department.

e) Any specialty advertisement shall include the complete name of the certifying specialty board.

f) ~~d~~ In addition to the above requirements, a podiatric physician shall comply with advertising requirements set forth in Section 21 of the Act.

(Source: Amended at 20 Ill. Reg. 10692, effective JUL 26 1996)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS/RULES

1) Heading of the Part: Public Notice of Opportunity for Public Hearing and Public Hearing Procedures

2) Code Citation: 77 Ill. Adm. Code 1200

3)

Section Numbers:	Adopted Action:
1200.30	Amendments
1200.40	Amendments

4) Statutory Authority: Illinois Health Facilities Planning Act, 20 ILCS 3960 et seq.

5) Effective Date of Rulemaking: August 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 1, 1996

9) Notice of Proposal Published in Illinois Register: March 15, 1996 at 11 Ill. Reg. 4168

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Nonsubstantive editing changes recommended by JCAR were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? The Agency has made all the changes to which it agreed with the Joint Committee.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 1200 contains the Health Facilities Planning Board's procedural rules on opportunity for public hearing and public hearing requirements for certificate of need (permit) applications. The proposed amendments delete the notice requirements for various organizations, health care facilities, and other persons and follows the statutory requirement of giving notice through publication in a newspaper serving the community.

16) Information and questions regarding these adopted rules shall be directed to:

Donald Jones

HEALTH FACILITIES PLANNING BOARD

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Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, 2nd Floor
Springfield, IL 62761
(217) 782-3516

The full text of the Adopted Amendment(s)/Rule(s) begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS/RULES

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1200
PUBLIC NOTICE OF OPPORTUNITY FOR PUBLIC HEARING AND PUBLIC HEARING PROCEDURES

Section
1200.10 Authority
1200.20 Applicability
1200.30 Procedures for Public Notification of Opportunity for Public Hearing
1200.40 Procedures for Notice of Public Hearing on Applications for Permit
1200.50 Procedures for Public Hearing on Applications for Permit
1200.60 Procedure for Public Notice of Application for Certificate of Recognition (or Revocation, Thereof)
1200.70 Procedures for Public Hearing on an Application for Certificate of Recognition (or Revocation, Thereof)

AUTHORITY: Implementing and authorized by Section 12(2) of the Illinois Health Facilities Planning Act [20 ILCS 3960/12(2)].

SOURCE: Second Edition adopted at 4 Ill. Reg. 4, p. 254, effective January 11, 1980; amended at 5 Ill. Reg. 4966, effective April 22, 1981; emergency amendment at 6 Ill. Reg. 6900, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10697, effective AUG 0 1 1996.

Section 1200.30 Procedures for Public Notification of Opportunity for Public Hearing

Content and Distribution of Public Notice of Receipt of an Application for Permit:

a) After an application for permit has been received and has been deemed complete, the recognized areawide health planning organization or the Agency (as the case may be) shall afford an opportunity for public hearing on the project by preparing a public notice advising that the application for permit has been received. The content of this public notice shall consist of at least the following elements:
   1) Identification of the proposed project and the Review Schedule (including a brief description of the project);
   2) Identification (including the mailing address and telephone number) of the appropriate recognized areawide health planning organization or the Agency (as the case may be); and
   3) The "time-frame" (which shall be at least 15 days from the date

HEALTH FACILITIES PLANNING BOARD

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of notification of the beginning of the Review Period) for any person ~~interested or affected party~~ to contact the recognized areawide health planning organization (or the Agency) to request a public hearing on the proposed project.

b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community to be affected. The "date of notification" of the beginning of the Review Period, is the date on which the "Notice of Review and Opportunity for Public Hearing" is sent to the applicant or the date on which the notice appears in the newspaper, whichever is later. Such notice should be published as soon as is possible after the receipt of an application in order to allow the public at least 15 days to request a public hearing.

c) The "Notice of Review and Opportunity for Public Hearing" shall also be forwarded by mail to the following ~~agencies or "affected persons"~~:
   1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
   2) ~~Any~~ contiguous areawide health planning organization or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.;
   ~~3) Any third party payors who reimburse health care facilities for services in the HSA in which the proposed project is to be located, who have contacted the recognized areawide health planning organization or the Agency (as the case may be) and have requested to be contacted regarding this matter;~~
   ~~4) Any existing health care facilities located in the health service area in which the proposed project is located, that provide services similar to the proposed project;~~
   ~~5) State Senators and Representatives of the Legislative District in which the proposed project is located; and~~
   ~~6) Any local health departments and medical societies located in the area in which the proposed project is located.~~

d) Notice to all other persons including members of the general public who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in Section 1200.30 (b)).

(Source: Amended at 20 Ill. Reg. 10697, effective AUG 0 1 1996)

Section 1200.40 Procedures for Notice of Public Hearing on Applications for Permit

Content and Distribution of Notice of Public Hearing on Applications for Permit:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS/RULES

a) If the recognized areawide health planning organization or the Agency (as the case may be) receives a request for public hearing on a proposed project in response to the notification of opportunity for public hearing (as outlined in Section 1200.30) and within the ~~"time-frame" established~~ for any person ~~affected-persons~~ to respond, then the recognized areawide health planning organization or the Agency must schedule a public hearing on the proposed project and a public notice of the hearing prepared. The content of the public notice shall consist of at least the following elements:
   1) Identification of the subject to be heard;
   2) Identification of the law under which it is being heard;
   3) Identification of the agency conducting the hearing;
   4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and
   5) Announcement of the time, date and location of the hearing.

b) *Notice of such hearing* (as prepared in accordance with subsection (a) above) *shall be made promptly by certified mail to the applicant, and within 10 days of the hearing, by publication in a newspaper of general circulation in the area or community to be affected* (Section 8 of the Act).

c) Notice of the public hearing shall also be forwarded by mail to the following ~~agencies-or-"affected-persons"~~:
   1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
   2) Any contiguous areawide health planning organizations or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.~~;~~
   ~~3) Any--third-party--payors-who-reimburse-health-care-facilities-for services-in-the-HSA-in--which--the--proposed--project--is--to--be located;--who--have--contacted--the--recognized--areawide--health planning-organization-or-the-Agency-(as-the-case-may-be)-and-have requested-to-be-contacted-regarding-this-matter;~~
   ~~4) Any-existing-health-care-facilities-located-in-the-health-service area--in--which--the--proposed--project--is-located;-that-provide services-similar-to-the-proposed-project;~~
   ~~5) State-Senators-and-Representatives-of-the-Legislative-District-in which-the-proposed-project-is-located;~~
   ~~6) Any-local-health-departments-and-medical-societies-located-in-the health-service-area.~~

d) Notice to all other persons including members of the general public who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in subsection (b) above).

(Source: Amended at 20 Ill. Reg. 10697, effective AUG 0 7 1996)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

1) Heading of the Part: Hi/Low

2) Code Citation: 11 Ill. Adm. Code 313

3)

Section Number:	Adopted Action:
313.10	New Section
313.20	New Section
313.30	New Section
313.40	New Section

4) Statutory Authority: 230 ILCS 5.9(b)

5) Effective Date of Rule: August 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date filed in Agency's Principal Office: July 29, 1996

9) Notice of Proposal Published in Illinois Register: 20 Ill. Reg. 6000, 4/26/96

10) Has JCAR issued a Statement of Objections to this rule? No

11) Differences between proposal and final version: In Section 313.40(c): Added "(e.g., finishing horses 1, 2 (dead heated), 3 and 4; total number to determine pool would be 10)". In Section 313.20(c): Changed IAC cite to "of this Part". In Sections 313.20(c), 313.30, and 313.40(b): Changed "three" to "3". In Section 313.30(a): Changed "two" to "2". Changed Section Number for Section 313.40. In Section 313.40: Changed to Ill. Adm. Code 300.20(a). In Section 313.40(e): Changed IAC cite and added "of this Part".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other proposed amendments pending in this Part? No

15) Summary and purpose of rules: This rulemaking creates a new wagering pool. The Board repealed a similar wagering pool [Over/Under, 11 Ill. Adm. Code 419] in October, 1995. Issues such as dead heats, selection of target numbers, pool distribution and pool variations are detailed.

16) Information and questions regarding these adopted amendments shall be

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

directed to:

Gina DiCaro
Illinois Racing Board, Legal Department
100 West Randolph, Suite 11-100
Chicago, IL 60601
(312) 814-5070.

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 313
HI/LOW

Section
313.10 Hi/Low
313.20 General Provisions
313.30 Pool Variations
313.40 Pool Distribution

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 20 Ill. Reg. 10702, effective AUG 0 1 1996.

Section 313.10 Hi/Low

The Hi/Low wager is the sum of the official program numbers of the first three finishers, irrespective of order, in a designated contest upon which winning wagers are determined. All Hi/Low wagers shall be calculated as an entirely separate wagering pool.

Section 313.20 General Provisions

a) The minimum Hi/Low wager shall not be more than $20. The designated minimum wager shall be displayed in the official program on each day the Hi/Low wager is offered.
b) The Section shall be displayed in the official program on each racing day the Hi/Low wager is offered.
c) The designated target number and/or pool variation selected by the organization licensee in accordance with Section 313.30 of this Part shall be prominently displayed in the official program for each race designated for Hi/Low wagering. The target number selected by the organization licensee shall not be lower than 6 or greater than the sum of the 3 highest post position numbers.
d) Hi/Low wagering shall be prohibited on races that contain coupled entries or mutuel fields.
e) Takeout shall be deducted from each gross Hi/Low pool pursuant to the Act [230 ILCS 5/26(a)]. The takeout rate established by the organization licensee shall be prominently displayed in the official program each racing day that the Hi/Low wager is offered.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

Section 313.30 Pool Variations

The organization licensee shall select one of the following 3 variations for each Hi/Low wager:

a) A target number plus 1/2 designated by the organization licensee, which creates 2 wagering options (Hi or Low).
b) A target number designated by the organization licensee, which creates 3 wagering options (Hi, Low or Push). A push shall be a wager which correctly selects the target number and not the Hi or Low category.
c) Three wagering options, designated by the organization licensee, based on the total possible minimum and maximum range (i.e., 6 to 12, 13 to 17, and 18 to 27 for a 10 horse field).

Section 313.40 Pool Distribution

a) The Hi/Low wager shall be distributed as a single price pool as described in 11 Ill. Adm. Code 300.20(a).
b) In the event there are fewer than 3 finishers in a designated Hi/Low contest, the entire Hi/Low pool shall be refunded.
c) In the event there is a dead heat in a designated Hi/Low contest, the sum of program numbers for all horses placed first, second and third shall be the number upon which winning wagers are determined (e.g., finishing horses 1, 2 (dead heated), 3 and 4; total number to determine pool would be 10).
d) In the event there are no winning wagers for a Hi/Low contest, the entire Hi/Low pool shall be refunded.
e) In the event a scratch of betting interests eliminates one or more of the wagering options established pursuant to Section 313.20 of this Part, the entire Hi/Low pool shall be refunded.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Numbers: 100.9505 — Adopted Action: New Section

4) Statutory Authority: 35 ILCS 5/913

5) Effective Date of Amendment(s): July 29, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: July 29, 1996

9) Notice of Proposal Published in Illinois Register: April 26, 1996, 20 Ill. Reg. 6004

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version:

1. In line 318, after ".", added:

Before the auditor may submit a proposed 60-day letter to the audit supervisor for signature, the auditor shall present the taxpayer with a copy of the proposed 60-day letter (including all attachments). Within 30 days after receiving the copy from the auditor, the taxpayer may submit a written objection to the issuance of the 60-day letter to the auditor, stating any grounds for objection the taxpayer believes appropriate. After receiving an objection from the taxpayer or after the 30-day period for submitting an objection has expired, the auditor may submit the 60-day letter together with any objection to the audit supervisor. If, after considering the taxpayer's objections, the audit supervisor believes the 60-day letter should be issued, he or she shall sign the 60-day letter and forward the 60-day letter together with the taxpayer's objections to the Director (or his or her designee) for review.

2. In line 324, after ".", added:

In any case in which the taxpayer has filed a Form IL-2848 Power of Attorney appointing a representative for the tax period involved, a copy of the 60-day letter shall be sent to each representative as directed in the Form IL-2848.

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3. In line 296, deleted "whenever practicable,".

4. In line 298, added "reasonable" before "date".

5. In line 321, changed "of" to "after".

6. In line 351, added "(i.e., material that is read with the aid of a machine)" after "sensible".

7. In line 397, added after the period the following: "Examples of facts that may constitute good cause for extension include, but are not limited to:

i) the large volume of documents responsive to the 60-day letter prevents timely compliance by the taxpayer;

ii) the documents responsive to the 60-day letter are stored in a location that makes timely production excessively difficult;

iii) the documents responsive to the 60-day letter are maintained in a machine-sensible format that is incompatible with machines belonging to the Department, and timely conversion of the documents into a format useful to the Department would be excessively difficult; or

iv) unforeseen demands on the taxpayer's document storage and retrieval system resources make timely compliance excessively difficult."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
100.2330	Amendment	6/21/96, 20 Ill. Reg. 8271
100.9710	New Section	7/19/96, 20 Ill. Reg. 9488
100.2470	Amendment	7/26/96, 20 Ill. Reg. 9840

15) Summary and Purpose of Amendment(s): Public Act 89-399 amended 35 ILCS 5/913 to allow the Department of Revenue to issue a 60-day letter to a taxpayer requesting production of documentary evidence in the conduct of an income tax audit, investigation or hearing. A taxpayer who fails to produce a document in timely response to a 60-day letter is thereafter

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precluded from presenting that document later in the audit or in a subsequent hearing. This rulemaking sets forth the Department's policies and procedures for issuing and enforcing 60-day letters.

16) Information and questions regarding this adopted amendment shall be directed to:

Paul S. Caselton
Senior Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

SUBPART B: CREDITS

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

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SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

SUBPART F: BASE INCOME OF INDIVIDUALS

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective JUL 29 1996.

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section 100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913)

a) *If, during the course of any audit, investigation, or hearing, the Department determines that a taxpayer lacks necessary documentary evidence, the Department is authorized to notify the taxpayer, in*

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writing, to produce the evidence. The taxpayer shall have 60 days, subject to the right of the Department to extend this period either on request for good cause shown or on its own motion, from the date the notice is personally delivered or sent to the taxpayer by certified or registered mail in which to obtain and produce the evidence for the Department's inspection. Failure to provide the requested evidence within the 60-day period precludes the taxpayer from providing the evidence at a later date during the audit, investigation or hearing. (IITA Section 913)

b) The provision in IITA Section 913 allowing the Department to issue 60-day letters does not, in itself, provide the Department with authority to compel a taxpayer to produce any books, records or other documentary evidence which the taxpayer does not choose to produce. However, a taxpayer who fails to produce any evidence properly requested in a 60-day letter will thereafter be precluded from presenting such evidence later during the audit or at any subsequent proceeding before the Department, including informal conferences, refund claims, and informal reviews or administrative hearings of protests of notices of deficiency or notices of denial of refund claims.

c) General requirements for issuing 60-day letters. A 60-day letter shall be issued to a taxpayer during the course of an audit only if the following requirements are met:

1) A 60-day letter shall be issued to request only documentary evidence which the Department has previously requested from the taxpayer during the audit in a formal written notice, signed by the audit supervisor, which included:

A) A description of the documentation requested, such as correspondence, internal studies or memoranda, contracts, or minutes of meetings of the board of directors or committees; and

B) a statement of the issue or issues to which the requested evidence may be relevant; and

C) a reasonable date for compliance with the request.

2) A 60-day letter shall be issued only after:

A) the taxpayer has notified the Department (by any means) that the taxpayer will not or cannot comply with the request in subsection (c)(1), above, with respect to one or more documents requested; or

B) the date for compliance stated in the request has passed.

3) To each 60-day letter, the Department shall attach a copy of the previous request or requests for documentary evidence in subsection (c)(1), above.

4) Each 60-day letter shall include:

A) a listing of the books, records or other documentary evidence requested in the 60-day letter; and

B) with respect to each such listing, a reference to the attached copy of a request in subsection (c)(1), above, in

which the evidence was previously requested from the taxpayer.

5) The 60-day letter shall be signed by the audit supervisor and by the Director of the Department of Revenue or his or her designee. Before the auditor may submit a proposed 60-day letter to the audit supervisor for signature, the auditor shall present the taxpayer with a copy of the proposed 60-day letter (including all attachments). Within 30 days after receiving the copy from the auditor, the taxpayer may submit a written objection to the issuance of the 60-day letter to the auditor, stating any grounds for objection the taxpayer believes appropriate. After receiving an objection from the taxpayer or after the 30-day period for submitting an objection has expired, the auditor may submit the 60-day letter together with any objection to the audit supervisor. If, after considering the taxpayer's objections, the audit supervisor believes the 60-day letter should be issued, he or she shall sign the 60-day letter and forward the 60-day letter together with the taxpayer's objections to the Director (or his or her designee) for review.

6) The 60-day letter shall be sent by certified mail, return receipt requested, to an individual taxpayer or, for other taxpayers, to a person authorized to sign tax returns on behalf of the taxpayer pursuant to IITA Section 503, or shall be hand delivered to the taxpayer by the auditor if the taxpayer acknowledges receipt of the letter in writing. In any case in which the taxpayer has filed a Form IL-2848 Power of Attorney appointing a representative for the tax period involved, a copy of the 60-day letter shall be sent to each representative as directed in the Form IL-2848.

d) Production of evidence. Unless a 60-day letter expressly provides otherwise, a taxpayer may produce the documentary evidence requested in the 60-day letter by any one or more of the following means:

1) Providing the auditor with a legible photostatic copy of a document.

2) Providing the auditor with a microfilm, microfiche or other machine-sensible (i.e., material that is read with the aid of a machine) copy of a document, provided that such copy shall be in a form or format which is either compatible with a machine belonging to the Department or otherwise readily usable by the Department.

3) Allowing the auditor access to the original or a copy of any requested document, provided that:

A) such access shall be provided to the auditor at the place where the auditor has been conducting the audit of the taxpayer or at some other location to which the auditor shall agree, provided that such agreement shall not unreasonably be withheld;

B) the taxpayer must provide the auditor with any equipment

necessary to review such documentary evidence and to make copies which are readily usable by the Department; and

C) the taxpayer must allow the auditor continuing access to such documentation until the auditor has had sufficient time, as reasonably determined by the auditor, to review and copy every document so provided.

e) Time for compliance with 60-day letter

1) The taxpayer shall have 60 days from the date the 60-day letter is received, computed in accordance with the provisions of 5 ILCS 70/1.11, to produce the documentary evidence requested, unless the period for compliance is extended by the Department.

2) At the sole discretion of the Department, the Department may, by written notice to the taxpayer signed by the auditor and the audit supervisor, extend the period for compliance on its own motion.

3) The Department may extend the period for compliance upon request of the taxpayer complying with the following requirements:

A) The request for extension shall be in writing and shall be submitted to the auditor prior to the expiration of the period for compliance as stated in the 60-day letter;

B) the request for extension shall expressly indicate which books, records or other documentary evidence requested in the 60-day letter require additional time to produce. The compliance period shall not be extended for documentary evidence which the taxpayer does not expressly include in the request for extension;

C) the request for extension shall propose a specific date to which the compliance period shall be extended; and

D) The request for extension shall state specific reasons which the taxpayer believes may constitute good cause for extending the period for compliance. Examples of facts that may constitute good cause for extension include, but are not limited to:

i) the large volume of documents responsive to the 60-day letter prevents timely compliance by the taxpayer;

ii) the documents responsive to the 60-day letter are stored in a location that makes timely production excessively difficult;

iii) the documents responsive to the 60-day letter are maintained in a machine-sensible format that is incompatible with machines belonging to the Department, and timely conversion of the documents into a format useful to the Department would be excessively difficult; or

iv) unforeseen demands on the taxpayer's document storage and retrieval system resources make timely compliance excessively difficult.

4) In determining whether to grant a request to extend the period

for compliance, the Department shall take into account the reasons stated in the request and any other facts it deems relevant, including:

A) When previous extensions have been granted, any statements made by the taxpayer in connection with its earlier requests. In particular, the Department may consider the taxpayer's prior estimates of the time necessary for compliance and whether the taxpayer has adequately explained the reasons its earlier estimates were in error.

B) The time remaining before the statute of limitations for issuing a notice of deficiency will expire. The Department may require the taxpayer to execute an extension of the statute of limitations as a condition to the grant of an extension of the compliance period.

C) The extent to which the taxpayer has already produced the requested documentary evidence, including any documentary evidence for which the taxpayer is not requesting an extension.

5) The auditor and the audit supervisor shall make the initial grant or denial of a request to extend the period for compliance.

A) If the auditor and audit supervisor grant the request, they shall so inform the taxpayer in writing.

B) If the auditor and audit supervisor deny the request because it was not timely made, they shall so inform the taxpayer in writing.

C) Any denial of a timely request for extension shall be reviewed by the Director or his or her designee prior to issuance. If the Director or his or her designee determines that denial of the request is appropriate, the auditor and audit supervisor shall notify the taxpayer in writing of the denial and the reasons for the denial.

6) In the case of any timely request for extension, the running of the compliance period shall be tolled from the date the request for extension is delivered to the auditor until the date the written notice of approval or denial of the request for extension is issued.

f) Failure to comply with 60-day letter. If a 60-day letter is issued in compliance with the requirements of this Section, no books, records or other documentary evidence which were within the scope of the request in the 60-day letter and which were not produced prior to the expiration of the period for compliance with the 60-day letter (including extensions) shall be considered for any purpose in determining the taxpayer's Illinois Income Tax liability for the taxable years covered by the 60-day letter.

1) Disputes regarding the proper issuance and scope of the request in a 60-day letter. If, during any administrative hearing conducted pursuant to 86 Ill. Adm. Code 200, an objection is made to the admission of documentary evidence based on failure to

comply with a 60-day letter, such documentary evidence shall not be considered by the Administrative Law Judge if the Administrative Law Judge finds that:

A) the 60-day letter complied with all applicable requirements of subsection (c), above;

B) the documentary evidence was not produced by the taxpayer in timely compliance with the 60-day letter; and

C) the documentary evidence was within the scope of the request in the 60-day letter.

2) On his or her own motion, the Administrative Law Judge may exclude from consideration any documentary evidence which was not timely produced in compliance with a 60-day letter upon making the findings in this subsection (f). Documentary evidence excluded from consideration by the Administrative Law Judge shall be included in the record only for purposes of administrative review of the decision to preclude the taxpayer from presenting such evidence, provided an offer of proof has been made.

3) In no event will documentary evidence which a taxpayer has failed to produce in timely response to a 60-day letter be considered either by the auditor or by the Informal Conference Unit established pursuant to 20 ILCS 2505/39b20.1 in connection with the audit in which the 60-day letter was issued.

4) Documentary evidence which the taxpayer would otherwise be precluded from presenting under these provisions may be considered during an informal review conference conducted under 86 Ill. Adm. Code 200.135 or at an administrative hearing conducted pursuant to 86 Ill. Adm. Code 200 only at the sole discretion of the Department.

g) Issuance of 60-day letters to taxpayers in hearings. IITA Section 913 expressly permits the Department to issue 60-day letters in the course of a hearing. However, the Department will not issue 60-day letters in the course of proceedings in any informal conference or administrative hearing being conducted pursuant to regulations under 86 Ill. Adm. Code 200 until specific procedures for issuing such letters are adopted by amendment to this Section.

(Source: Added at 20 Ill. Reg. 10706, effective JUL 29 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Animal Diagnostic Laboratory Act

2) Code Citation: 8 Ill. Adm. Code 110

3) Register Citation to Notice of Proposed Amendments:

20 Ill. Reg. 8746; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8746, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Bovine Brucellosis

2) Code Citation: 8 Ill. Adm. Code 75

3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 8752; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8752, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Diseased Animals

2) Code Citation: 8 Ill. Adm. Code 85

3) Register Citation to Notice of Proposed Amendments:

20 Ill. Reg. 8759; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8759, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Equine Infectious Anemia Control

2) Code Citation: 8 Ill. Adm. Code 116

3) Register Citation to Notice of Proposed Amendments:

20 Ill. Reg. 8773; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8773, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Pseudorabies Control Act

2) Code Citation: 8 Ill. Adm. Code 115

3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 8777; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8777, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Livestock Auction Markets

2) Code Citation: 8 Ill. Adm. Code 40

3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 8790; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8790, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Livestock Dealer Licensing

2) Code Citation: 68 Ill. Adm. Code 610

3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 8795; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8795, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Swine Disease Control and Eradication Act

2) Code Citation: 8 Ill. Adm. Code 105

3) Register Citation to Notice of Proposed Amendments: 20 Ill. Reg. 8799; July 12, 1996

4) Date, Time and Location of Public Hearing:

Wednesday, August 21, 1996, 10:00 a.m.
Department of Agriculture
Agriculture Building, State Fairgrounds
Springfield, IL 62794-9281
Telephone: 217/785-5713 Facsimile: 217/785-4505

5) As announced in 20 Ill. Reg. 8799, those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should mail written comments to the attention of Debbie Wakefield at the above address. In order for mailed comments to be available for consideration at the public hearing, please mail no later than August 15, 1996. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

ILLINOIS GAMING BOARD

JULY 1996 REGULATORY AGENDA

a) Part (Heading and Code Citation: Riverboat Gambling, 86 Ill. Adm. Code 3000

1) Rulemaking:

A) Description: Part 3000 will be comprehensively revised to reflect changes in Board policy resulting from experience with existing rules, discussions with licensees, and developments in the industry. During the latter part of the year further rule changes may be proposed, including changes resulting from possible legislative task force recommendations and legislation.

B) Statutory Authority: Riverboat Gambling Act [230 ILCS 10]

C) Scheduled meeting/hearing dates: One meeting to consider a draft of some of the anticipated rule changes has been held with affected licensees. No further schedule has been established at this time.

D) Date agency anticipates First Notice: The agency anticipates publication of First Notice of a comprehensive rulemaking in August, with further rulemaking as required throughout the year.

E) Affect on small businesses, small municipalities, or not for profit corporations: No affect on small businesses, small municipalities, or not for profit corporations is expected by any rulemaking.

F) Agency contact person for information:

Mareile B. Cusack
Chief Counsel
Illinois Gaming Board
160 N. LaSalle, Suite 300S
Chicago, IL 60601
(312) 814-4700; FAX: (312) 814-4602

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC AID

JULY 1996 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation: Assistance Standards (89 Ill. Adm. Code 111)

1) Rulemaking: Adjust assistance standards.

A) Description: In accordance with the methodology established in Section 111.20, the Department will propose amendments to adjust the Standard of Need for receipt of Aid to Families with Dependent Children effective January 1, 1997. The Public Aid Code requires that the assistance standards be updated every January based on changes in the Consumer Price Index for the previous fiscal year.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities, and not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

DEPARTMENT OF PUBLIC AID

JULY 1996 REGULATORY AGENDA

b) Part(s) (Heading and Code Citation): Aid to Families with Dependent Children (89 Ill. Adm. Code 112)

1) Rulemaking: Replace or revamp Aid to Families with Dependent Children; Eliminate aid for essential persons; Implement payment of AFDC-U grant based on work performance; Increase job retention provisions; Strengthen emphasis on work and work-related activities under the AFDC JOBS program; In cooperation with the Department of Alcoholism and Substance Abuse, target clients who are at high risk of alcohol and substance abuse; Establish a Personal Responsibility Plan for young parents and require young parents to obtain a high school diploma or GED, regardless of their employment status; Require all AFDC clients, who are not in the JOBS program, to participate in work-related activities or face possible sanctions; Eliminate a conciliation agreement and sanction clients who are participating in the AFDC JOBS program, if the Department determines at the conciliation meeting that the client did not establish good cause for failing to participate with the program requirements; Require sanctioned individuals to participate in the JOBS program for up to two weeks before the sanction is ended and assistance is restored.

A) Description: Recent State legislation requires a complete revamping of Aid to Families with Dependent Children. Pending federal legislation may allow the Department to undertake this revamping or limit the revamping. Such a replacement of the program will result in changes to: (1) the grant structure; (2) the family assistance units; (3) the asset levels for determining eligibility; (4) the treatment of income received by family units; (5) the length of time assistance will be provided; and (6) employment and training activities.

New policies concerning client contracts aimed at self-sufficiency, including an option to receive a one-time payment, will also need to be developed. Timeframes for submission of the necessary rulemaking are dependent upon federal action.

Federal legislation that is currently under consideration would allow the Department to eliminate aid for individuals defined as "essential persons" under the Aid for Families with Dependent Children program. In the event that such federal legislation is passed, the Department will propose amendments to eliminate assistance for such "essential persons." Timeframes for submission of the rulemaking are dependent upon federal action.

The Department plans to propose rulemaking to provide payment of the family's monthly assistance grant based on the work performance of parents in AFDC-U cases who participate in the

DEPARTMENT OF PUBLIC AID

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Unemployed Parents Work Experience in the preceding month.

The Department plans to propose rulemaking to emphasize work under the AFDC JOBS program. The Department will delete the volunteer first focus of the JOBS Program. AFDC clients will still be able to volunteer for the program, but the program's original philosophy of a volunteer program is no longer valid. This rulemaking will emphasize that work-related activities may also be part of education below the post-secondary level component activities; deny post-secondary education for individuals who have reduced employment hours or quit a job during the three months prior to their request for supportive services; change supportive services to a flat monthly amount; increase the monthly job search allowance; delete the unemployed or underemployed approval criterion for the Job Skills Training component; and delete the current requirement for ten employer contacts each month for participants in the Job Readiness component. There will be no specific number of employer contacts that are required each month.

Recently enacted state legislation will result in the development of a demonstration to target and aid in the removal of barriers such as alcohol and substance abuse to help AFDC recipients move from welfare to work. The Department is exploring the establishment of three pilot sites. The Department of Alcoholism and Substance Abuse would train Public Aid caseworkers to screen all clients for possible substance abuse. Clients with a problem would be referred to a dedicated alcoholism and substance abuse treatment program. AFDC recipients that have been identified with a substance abuse problem would be mandated to seek treatment. Failure to comply could result in possible reduced benefits, imposition of the DASA provider as protective payee, or both. A federal waiver would be required.

Rules will be proposed to require young parents, who participate in the Teen Parent Initiative/Young Parent Services (TPI/YPS) program, to complete a Teen Parent Personal Responsibility Plan in which both the young parent and the Department sign a written agreement. The Teen Parent Personal Responsibility Plan defines the responsibilities the young parent must meet to receive AFDC cash assistance and what services the Department agrees to provide. It sets the following goals for the young parent and describes how the Department will help the young parent meet these goals: (1) attend school to complete a high school education; (2) establish paternity for the young parent's child or children and obtain child support; (3) improve the young parent's parenting skills; and (4) seek and obtain full-time employment.

Rules will also be proposed to require all clients receiving AFDC

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grants and not enrolled in the JOBS program to participate in work-related activities and accept a suitable offer of employment or face a possible sanction.

Amendments will be proposed to eliminate a conciliation agreement and allow the Department to sanction clients who complete the JOBS orientation, employability assessment and are assigned to a JOBS component, if they fail to cooperate with the JOBS program requirements and do not establish good cause during the conciliation process.

Rulemaking will be proposed to require clients, who complete the sanction period, to agree, in writing, to cooperate with the program requirements and fulfill the agreement by demonstrating cooperation and participating, for up to two weeks, in the program activity before the sanction is lifted.

The JOBS amendments will be updated to reflect that parents of children born under the Family Accountability rules are not exempt from JOBS due to care of a child under age three.

Amendments will be proposed to extend medical eligibility to refugees who lose medical eligibility because of employment. The extension for families losing eligibility for cash or medical assistance cannot exceed the maximum of eight months. The eight month maximum includes the time the client received medical or cash assistance.

The Department plans to propose rulemaking to prevent payment for providing child care, to step-parents living with their step-children.

Depending on the enactment of a State law change, the Department will propose amendments to exempt 18, 19 and 20 year olds from parental responsibility requirements.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]; Public Act 89-6; State and federal legislation.

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

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D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: The Department of Alcoholism and Substance Abuse may have to submit rulemaking regarding the initiative to target clients who are at high risk of alcohol and substance abuse.

c) Part(s) (Heading and Code Citation): Aid to Families with Dependent Children (89 Ill. Adm. Code 112); Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113); General Assistance (89 Ill. Adm. Code 114); Medical Assistance Programs (89 Ill. Adm. Code 120); and Food Stamps (89 Ill. Adm. Code 121)

1) Rulemaking: Make fugitives from criminal justice ineligible for benefits.

A) Description: Upon granting of the required waivers by the federal Health Care Financing Administration, the Department plans to propose rulemaking to implement the provisions of Section 1-8(a) of the Illinois Public Aid Code. These statutory provisions provide that a person who (1) has fled to avoid incarceration for having committed a felony, (2) has fled from the jurisdiction of a court to avoid giving testimony in a criminal proceeding involving the commission of an alleged felony, or (3) has escaped incarceration for a felony, will be ineligible for any benefits under the Public Aid Code.

B) Statutory Authority: Sections 1-8(a) and 12-13 of the Illinois

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Public Aid Code [305 ILCS 5/1-8(a) and 12-13].

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
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100 South Grand Avenue East, Third Floor
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(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

d) Part(s) (Heading and Code Citation): Related Program Provisions (89 Ill. Adm. Code 117) and Food Stamps (89 Ill. Adm. Code 121)

1) Rulemaking: Implement electronic benefit transfer program.

A) Description: The Department plans to propose rulemaking to establish electronic benefit transfer as a method for distributing benefits to clients. Language will be included in the rulemaking to mitigate any liabilities that may occur due to federal Regulation E being applicable to benefit distribution.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

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C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
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100 South Grand Avenue East, Third Floor
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(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

e) Part(s) (Heading and Code Citation): Medical Assistance Programs (89 Ill. Adm. Code 120)

1) Rulemaking: Provide criteria for appeals of the community spouse resource allowance; Allow for personal needs allowance equal to long term care client's monthly income for up to two months.

A) Description: The Department plans to propose amendments to provide criteria for appeals of the Community Spouse Resource Allowance (CSRA). The rulemaking will establish the criteria the Department will use, as the result of an appeal, to determine the amount (if any) over the CSRA maximum of $76,740 that a resident in a nursing facility may transfer to a community spouse without effecting Medicaid eligibility. The method for the determination will be outlined in the rulemaking. It will include basing the

income-producing capacity of assets on the amount needed to purchase a single premium life annuity that would provide monthly payments sufficient to raise the community spouse's income to the Community Spouse Maintenance Needs Allowance of $1,918. The purchase of the annuity will not be required.

The Department also plans to proposed amendments to allow for a personal needs allowance equal to a long term care client's income, for up to two months, instead of the $30 per month personal allowance. This increase in personal allowance will apply only to long term care clients, identified by the Department on Aging or the Department of Public Aid, for voluntary transition to the community to receive services through the Department on Aging.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

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(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

f) Part(s) (Heading and Code Citation): Food Stamps (89 Ill. Adm. Code 121)
1) Rulemaking: Revise Food Stamp program.

A) Description: In accordance with provisions of 7 CFR 273 and Section 13921 of the Mickey Leland Childhood Hunger Relief Act, the Department plans to propose amendments to make the following changes to the Food Stamp program.

With the exception of categorically eligible households and households entitled to expedited service, all members of the food stamp household must furnish to the Department a social security number or provide proof of application for a social security number. This rulemaking will establish that applications for social security cards are to be completed at a Social Security District Local Office or completed by the Enumeration at Birth Program. Based on an agreement with the Social Security Administration, local offices will no longer be involved in processing applications for social security numbers.

Amendments will be proposed to place in the rules previously repealed work registration/participation requirements and the penalties for failure to comply with these requirements for the Food Stamp program. These provisions were repealed in error.

Amendments will be proposed to exempt certain households from the voluntary quit provisions. This rulemaking will provide that if the primary wage earner or the only adult household member quits his or her job, the food stamp household will be disqualified from receiving food stamp benefits. However, if the food stamp household contains another parent of children in the household, the voluntary quit provisions will not apply.

Pursuant to 7 CFR 273.11, Vol. 61, No. 85 pp. 19155-19160 (Federal Register dated May 1, 1996), the Department expects to propose a rulemaking to establish that food stamp benefits will not increase when a household's cash assistance benefits decrease due to an intentional failure to comply with requirements of a federal, State or local cash assistance program. As a result of these proposed amendments, the amount of cash assistance benefits withheld from the household due to an intentional failure to comply with requirements of a federal, State or local welfare cash assistance program will be considered available unearned income in the determination of the household's eligibility and coupon allotment.

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Pursuant to Section 13921 of the Mickey Leland Childhood Hunger Relief Act, the Department will proposed amendments to add a deduction for household members paying legally obligated child support when net income is calculated for food stamp benefits.

Amendments will be proposed to clarify that children who receive AFDC cash assistance, but are not living with the assistance unit full-time, must remain in the same food stamp case as the caretaker relative for the AFDC cash assistance case. Revising the Food Stamp rules will provide consistency between the AFDC and Food Stamp programs and make it easier for casework staff to maintain an AFDC/Food Stamp case.

Some students attending an institution of higher education are eligible to participate in the Food Stamp program. The Department will propose a rulemaking to specify that a student of higher education will be allowed to participate in the Food Stamp program if the student is: (1) enrolled in a program under the Job Training Partnership Act; (2) enrolled as a result of the JOBS program under Title IV of the Social Security Act or its successor; (3) enrolled full-time in an institution of higher education and is a single parent with the responsibility for the care of a dependent child under age 12; (4) enrolled in any education or training program required by the Food Stamp Employment and Training program; or (5) participating in an on-the-job training program.

In addition, these amendments will revise the definition of an institution of higher education. This rulemaking will add language to the rules to indicate that a student attending an institution of higher education will be eligible to participate in the Food Stamp program if he or she has been approved to participate in a State or federal work study program and the student expects to work during the school term.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and 7 CFR 273.

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not

DEPARTMENT OF PUBLIC AID

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determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

g) Part(s) (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140)

1) Rulemaking: Update and clarify cost reporting requirements for long term care facilities; clarify coverage of private automobiles as medical transportation; include home births as a reimbursable service for physicians and nurse-midwives; add provisions for a supportive living facilities demonstration project; clarify the coverage and process by which physicians can dispense drugs; clarify requirements for documentation regarding drugs returned to the pharmacy; establish a policy that pharmacies must require a signature at the time a Medicaid prescription is picked up; clarify the requirements for pharmacists serving Medicaid clients to perform a drug review and to offer patient counseling; implement phase III of the Recipient Eligibility Verification system; and revise the rates for certain Federally Qualified Health Centers.

A) Description: The Department plans to review all rules regarding cost reporting and allowable costs for long term care facilities. These rules will be updated and clarified as appropriate. The Department does not plan to implement significant changes in policy.

Amendments to clarify the coverage of private automobiles as a means of transportation to a medical service are planned by the

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Department. Current rules do not provide any criteria for enrolling private automobiles as providers of service. The Department will propose that reimbursement for transportation by private automobiles should be limited to continuous services or a chronic medical condition rather than an occasional appointment.

Current Department policy does not allow payment for home births except in emergency situations. The Department intends to amend the rules to allow payment for home births as long as certain medical protocols and precautions are taken, including screening for at-risk births and hospital admitting privileges for cases involving complications.

Rules will be proposed to initiate a supportive living facilities demonstration project as mandated by Public Act 89-499. The Department may establish and provide oversight for a demonstration project to determine the viability of supportive living facilities. Supportive living facilities integrate housing with health care, personal care, and supportive services and are designated settings that offer residents their own separate, private and distinct living units. Rules will be proposed that establish or modify the services, standards and conditions for participation in the demonstration project.

The Department plans to propose the following changes to the rules pertaining to pharmacy services. Similar changes will be proposed for incorporation into the administrative rules for the Illinois State Board of Pharmacy requirements, for the practice of pharmacy in Illinois. Comparable provisions are necessary because the Health Care Financing Administration holds the Department responsible for monitoring compliance for Medicaid recipients. The language for the rules of both the Department of Professional Regulation and the Department of Public Aid will reflect the federal regulations.

Amendments will be proposed concerning a process whereby physicians can dispense some pharmaceutical products. Although the Medical Practice Act allows physicians to dispense take home drugs, the Department has never allowed physicians to be reimbursed for these take home drugs. Until this past year, there were no instances where a physician insisted on a need to be able to dispense drugs. Physicians offer two reasons for the Department to seriously consider this request: (1) many small pharmacies are closing because they cannot compete with the large chain pharmacies, and (2) pharmaceutical companies are beginning to direct marketing efforts toward physician practices.

Physicians who have previously avoided dispensing drugs are

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becoming aware of a new system for simple dispensing. A vending machine type system is now available for physician use.

The Department plans to propose amendments so that every drug returned to a pharmacy by a nursing home must be credited back to the Department unless there is acceptable documentation that the drug was destroyed within 72 hours of being returned. Failure to provide this credit will be possible grounds for termination or other action.

Amendments are planned to establish a policy regarding client signatures at the time of prescription pick up. Pharmacies will be required to maintain a signature log showing the signature of the recipient or the responsible party acting on the recipient's behalf who picked up each prescription. The log will not need to be separate from the logs required by other payers but must contain information sufficient to permit the prescription to be identified within the Department's payment files.

The Department also plans to propose amendments regarding the responsibilities of pharmacists to provide drug review and client counseling services. Federal regulations impose specific requirements on pharmacists serving Medicaid eligible individuals regarding the need to perform drug use evaluations and patient counseling concerning each prescription. This includes factors about each prescription such as the name and description of the medication, dosage and manner of administration, duration of therapy, proper storage, refill information, actions to be taken in case of missing doses, any special directions or precautions, and common side effects or adverse effects, interactions and therapeutic contraindications.

The Department plans to propose rulemaking under the authority included in Public Act 99-554 to implement Phase III of the Recipient Eligibility Verification system, scheduled to begin in fiscal year 1997. This phase involves verification of client eligibility for specific services. These swipe cards will contain a code corresponding to the case ID. The cards will be issued either one per person or one per case with personal identification numbers utilized to access most services. These cards may also incorporate some form of biometric identifier, such as electronic fingerprint or retinal signature that would conclusively identify the client or an individual acting on behalf of the client.

Additionally, the definition of high volume providers will be determined. These high volume providers will be required to show processed transactions indicating that eighty percent of claims were first checked by swiping cards rather than by hard input of

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client information.

The Department plans to revise the rates for certain Federally Qualified Health Centers (FQHC). The Department may propose rulemaking to remove the statewide cap on certain government owned and operated FQHCs.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

h) Part(s) (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140), MediPlan Plus (89 Ill. Adm. Code 142), Hospital Services (89 Ill. Adm. Code 148) and Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 Ill. Adm. Code 149)

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1) Rulemaking: Implement the MediPlan Plus managed care program; revise medical reimbursement provisions in conjunction with implementation of MediPlan Plus.

A) Description: The Department plans to propose rulemaking to implement provisions of Public Act 88-554 concerning a system of integrated health care services. This managed care program, to be known as MediPlan Plus, will create broad changes in Illinois' Medicaid Program. Utilizing managed care principles, the rulemaking will provide for an increase in the availability of Maternal and Child Health services, improve the quality of medical care, and control Medicaid costs. The Department plans to adopt the primary rules for this program as new Part 142. MediPlan Plus will serve over one million Medicaid clients with a choice of health maintenance organizations, primary care physicians, managed care community networks, federally qualified health centers, rural health clinics, and insurance companies. MediPlan Plus will encourage the integration of health care services and the management of the health care of enrollees while preserving reasonable choice within a competitive and cost efficient health care environment. The provisions in 89 Ill. Adm. Code 142 are intended to reflect the focus of the managed care legislation to assure that Illinois has an effective and affordable health care system in place for the benefit of clients, the health care community, and taxpayers.

Amendments will also be proposed as necessary to Part 140, Part 148 and Part 149 to assure that related medical reimbursement provisions reflect the medical services provided in conjunction with MediPlan Plus.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and

DEPARTMENT OF PUBLIC AID

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Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

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G) Related Rulemakings and Other Pertinent Information: None

j) Part(s) (Heading and Code Citation): Hospital Services (89 Ill. Adm. Code 148)

1) Rulemaking: Implement rural hospital adjustment payments; revise the reimbursement methodology for Critical Hospital Adjustment Payments (CHAP).

A) Description: The Department plans to propose rulemaking to implement a critical hospital adjustment payment for rural hospitals. The adjustment payment will emphasize obstetrical care in rural areas. The Department also plans to propose revisions for Critical Hospital Adjustment Payments (CHAP).

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

DEPARTMENT OF PUBLIC AID

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E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

k) Part(s) (Heading and Code Citation): Child Support Enforcement (89 Ill. Adm. Code 160)

1) Rulemaking: Change distribution of child support collections procedures; Amend the Administrative Paternity process: Amend the Department's rules on enforcement of child support orders; Amend the general provisions of the Department's rules on the child support enforcement program.

A) Description: The Department plans to propose rulemaking to revise its policies and procedures for distribution of excess child support payments. The rulemaking would allow the Department to retain excess child support payments and apply them to future months.

The Department plans to propose rulemaking to revise its policies and procedures for acknowledging paternity and to provide for cooperation requirements, pursuant to the terms and conditions of federal waiver, for the six-month paternity demonstration project.

The Department plans to proposed rulemaking to provide the circumstances under which the Department will credit its child support accounts receivable for payments made directly to the Title IV-D client where the operative court or administrative order for support requires child support payments to be made to the clerk of the court or the Department.

The Department plans to propose rulemaking to provide for

DEPARTMENT OF PUBLIC AID

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cessation of child support enforcement services when the Title IV-D client retains a private attorney to establish paternity, or establish, modify or enforce a child support obligation.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-for-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO EMERGENCY RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: AIDS Drug Reimbursement Program

Code Citation: 77 Ill Adm Code 692

Section Numbers: 692.10

Date Originally Published in the Illinois Register: 6/21/96
20 Ill Reg 8353

At its meeting on July 23, 1996, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that when the Department of Public Health gives Second Notice on the identical proposed rulemaking, it include standards within Section 692.10(b) for the exercise of discretion by the Department in determining for which categories of drugs participants will be reimbursed.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

SECRETARY OF STATE

Heading of the Part: Issuance of Licenses

Code Citation: 92 Ill Adm Code 1030

Date Originally Published int he Illinois Register: 6/21/96
20 Ill Reg 8358

At its meeting on July 23, 1996, the Joint Committee on Administrative Rules objected to the above emergency rules of the Secretary of State because no condition meeting the criteria for emergency rulemaking in Section 5-45 of the IAPA is present in this instance.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY
ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

1) Heading of the Part: Part-Time Basic Training

2) Code Citation: 20 Ill Adm Code 1770

3) Section Numbers: 1770.101, 1770.102, 1770.103, Action: Modification
1770.104, 1770.105, 1770.201, 1770.202, 1770.203,
1770.209, 1770.210, 1770.301, 1770.302, 1770.303,
1770.304, Appendix A

4) Notice of Proposal published in Illinois Register: 11/13/95

5) Date JCAR issued Statement of Recommendation: 5/21/96

6) Summary of Action taken by the Agency: The Committee recommended that the Board meet with members of the affected public to try to reach agreement on a better definition of "part-time police officer" and encouraged the Board to review independently the hours worked by each officer for multiple units of government for purposes of Part 1770. The Board met with commentors and voted to modify the definitions of "part-timepolice officer" and "full-time police officer" before it adopted the rules.

7) JCAR Action: Contrary to the Committee's intent, the changes were made in the rulemaking without common agreement among the parties. Therefore, this Notice of Failure to Remedy the Recommendation is published in accordance with 1 Ill Adm Code 220.1300. In addition to publishing this notice, the Committee asked that the Board meet again with the affected parties, and report back to JCAR before its December 1996 meeting as to whether the parties have been able to reach a mutually acceptable position as to what constitutes a part-time officer.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY
DEPARTMENT OF PUBLIC AID

1) Heading of the Part: General Assistance

2) Code Citation: 89 Ill Adm Code 114

3) Section Numbers: 114.351, 114.352, 114.353 Action: Refusal to remedy in response to JCAR Objection

4) Notice of Emergency published in Illinois Register: 3/15/96

5) Date JCAR issued Statement of Objection: 3/26/96

6) Summary of Action taken by the Agency: The Committee objected to this emergency rule because Public Act 89-21 specifically authorizes the Department to reduce payment levels to Transitional Assistance recipients within a fiscal year to avoid exceeding the appropriated funds for this program, but the Act does not authorize the Department to increase payment levels. On June 24, 1996, the Department responded to the Objection by citing more general statutory authority while ignoring the more specific statutory language. The emergency rule contravenes this specific language.

7) JCAR Action: At the July 23, 1996 meeting, JCAR determined that the response failed to remedy the Objection. This Notice of Failure to Remedy the Objection is published in accordance with 1 Ill Adm Code 220.1300.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 23, 1996 through July 29, 1996 and have been scheduled for review by the Committee at its August 20, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
9/6/96	Department of Nuclear Safety, Certification of Individuals to Perform Industrial Radiography (32 Ill Adm Code 405)	3/1/96 20 Ill Reg 3779	8/20/96
9/6/96	Department of Nuclear Safety, Accrediting Persons in the Practice of Medical Radiation Technology (32 Ill Adm Code 401)	3/1/96 20 Ill Reg 3772	8/20/96
9/6/96	Department of Nuclear Safety, Registration of Radon Detection and Mitigation Services (32 Ill Adm Code 420)	3/1/96 20 Ill Reg 3785	8/20/96
9/7/96	Department of Transportation, Disadvantaged Business Enterprises (92 Ill Adm Code 10)	5/24/96 20 Ill Reg 7367	8/20/96
9/7/96	Department of Transportation, Rules on Transporting Pupils Where Walking Constitutes a Serious Safety Hazard (92 Ill Adm Code 556)	5/17/96 20 Ill Reg 6660	8/20/96

Rules acted upon during the quarter of July 1 thorugh September 30, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

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GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
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SPRINGFIELD, IL 62756